

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Second day of June Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice S. VAIDYANATHAN

CRIMINAL ORIGINAL PETITION No.4825 of 2017

and CRL.M.P.Nos.4568 & 7683/2017

P.DILLI BHASKAR

[PETITIONER / ACCUSED]

Vs

1 THE STATE REP. BY,
INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, AVADI.
CR.NO.8 OF 2016.

[RESPONDENT]

2 SURYA

..RESPONDENT/PROPOSED RESPONDENT NO.2
IS IMPEADED & INTERVENER AS PER THE ORDER DATED
22/06/2017 MADE IN CRL.M.P.Nos.4568 & 7683/2017

For Petitioner : M/S.M.B.SASIKUMAR Advocate (IN CRL.OP. & CRL.MP)

For Respondent : MR. E.RAJA, Govt. Advocate (Crl. Side)

For Intervenor : M/S S.VISIVA GANDHI Advocate

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

Apprehending arrest at the hands of the respondent-Police for the alleged offences punishable under Sections 493 and 506 (Part-1) IPC in Crime No.8 of 2016 on the file of the respondent-Police, the petitioner has come forward with this petition seeking anticipatory bail.

2. As the de-facto complainant is the affected person, she is impleaded as a respondent and permitted to intervene as ordered today in Crl.M.P.Nos.4568 and 7683 of 2017.

3. According to the learned counsel for the petitioner, the petitioner and the de-facto complainant fell in love with each other, and on account of the promise made to marry her, he had physical relationship, out of which, she has now given birth to a child. According to the de-facto complainant, the petitioner/accused is her maternal uncle and her mother and the accused are sister and brother. It is further submitted by the de-facto complainant that believing the words of the petitioner and on account of the said promise given by her, she had consented for physical relationship and in that process, she became pregnant and the accused was insisting that the

child should be aborted and that only for entertainment purpose, he had physical relationship with her and not with any intention to marry her.

4. When the matter was heard at length even before the intervening and impleading petitions were filed, which were allowed today, actually this Court wanted to dismiss the anticipatory bail petition even at that stage. At that time, it was represented by the learned counsel for the petitioner that since the petitioner and the de-facto complainant are relatives and that the victim girl/de-facto complainant is a major, and the counsel pleaded that he would advise the accused to marry her and with reluctance, this Court posted the matter for mediation, taking note of the interest of the child that has been born due to the physical relationship between the petitioner and the de-facto complainant. In the mediation process, it appears that initially, the petitioner agreed to marry her and thereafter, refused to marry her and he is now evading.

5. When this petition came up for hearing yesterday (21.06.2017), this Court was about to start dictating the order to dismiss the petition, and at this stage, learned counsel for the petitioner submitted that the matter may be listed today (22.06.2017) at 2.15 p.m. and that he would ensure that the accused will be present before this Court and in the meantime, he would persuade the accused to marry the victim girl/de-facto complainant.

6. Today, when the matter is taken up for hearing, the petitioner/accused did not appear before this Court. The accused has not only defrauded the victim, but also playing fraud upon the Court making the counsel to represent that the matter would be settled and he would marry the victim girl. The act of the accused cannot be taken lightly and he is said to have committed serious offence on the woman, more particularly, the petitioner's own sister's daughter and made her conceive and she has now given birth to a child.

7. Ms.K.Shobarani, Inspector of Police, W-29 All Women Police Station, Avadi, Ambattur District, Chennai, appeared before this Court and submitted that she has formed a team and they are in search of the petitioner/accused and they are in the process of tracking him and the Police will arrest him.

8. This is a fit case where the petitioner should be taken to custody. Taking note of the submissions made by both parties and also considering the submissions made by the above said Police Officer, this anticipatory bail petition is dismissed.

9. Further, de-hors this petition, since the offence had been committed against a woman, it cannot be taken slightly by simply accepting the prayer of the petitioner for anticipatory bail. The Supreme Court, in a catena of decisions, held that a crime against a woman and children, more particularly, rape, is a monstrous burial of dignity of a woman in the darkness and it is a crime against the holy body of a woman and the soul of the Society. It is worthwhile to refer the following judgments of the Apex Court as under:

(i) 1980 (4) SCC 262 (Rafiq Vs. State of U.P.):

"When a woman is ravished, what is inflicted is not mere physical injury, but the deep sense of some deathless shame judicial response to human rights cannot be blunted by legal bigotry."

(ii) 2006 (3) SCC 771 (Dinesh Vs. State of Rajasthan):

"While a murderer destroys the physical frame of the victim, a rapist degrades and defiles the soul of a helpless female".

10. Furthermore, in yet another decision of the Supreme Court reported in 1996 (1) SCC 490 (Bodhisatwa Vs. Ms.Subdhra Chakroborty), the Apex Court held 'rape' as an offence, which is violative of the fundamental rights of a person guaranteed under Article 21 of the Constitution of India. The Apex Court further held that rape is a crime not only against the person of a woman, but it is a crime against the entire society. It destroys the entire physique of a woman and pushes her into deep emotional cries. Rape is therefore, the most hated crime. It is a crime against the basic human rights and is a violation of the victim's most cherished right, namely, the right to life which includes the right to live with human dignity contained in Article 21 of the Constitution of India.

11. Moreover, it is really shocking when the learned counsel for the petitioner submitted that the petitioner/accused wants to conduct DNA Test and until such time, he could be granted interim anticipatory bail, and this attitude of the petitioner towards his own sister's daughter is highly condemnable, which makes this Court to state that he is worse than an animal and this inhuman approach of the petitioner makes this Court to further observe that he is a sin to the society.

12. Before parting with the case, it has to be stated that it is very unfortunate that the accused like the present petitioner, are cheating the women, more particularly, women folk and with sexual aim, without realising the fact that they have life of their own and they are also made of flesh and blood, without treating them as human-beings.

13. Further, in this male chauvinistic society and male dominant patriarchal society, the women, more particularly, women folk face lots of challenges in their life and are battling for life in this predominant society with men, in one way or the other, by coping up with the given situation by putting themselves in a right spirit.

-sd/-
22/06/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
W-29 ALL WOMEN POLICE STATION, AVADI,
AMBATTUR DISTRICT, CHENNAI

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
AVADI.

CC to M/S.M.B.SASIKUMAR Advocate on payment of necessary charges

CRL OP.4825/2017

and CRL.M.P.Nos.4568 & 7683/2017

Date :22/06/2017

rvr 31/07/2017