



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the First day of March Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice S.VAIDYANATHAN

CRL OP(MD) No.1652 of 2017

A.M.MURUGESAN

... PETITIONER/NIL/DEFACTO COMPLAINANT

Vs

1 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
KARUR,
KARUR DISTRICT,
CRIME NO.5 OF 2016

2 MRS.RANI
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE
STATION,
KARUR,
KARUR DISTRICT.

3 M.SOBIYA

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.S.GOKUL RAJ Advocate

For Respondent : M/S.K.RAMACHANDRAN Additional Public Prosecutor,

For R3 : The Petitioner not appeared in person or by an
advocate

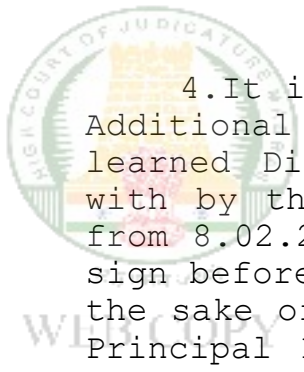
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The Petitioner has come forward with this Petition for cancellation of anticipatory bail granted by the learned District and Sessions Judge, Karur in Cr.M.P.No.84 of 2017, dated 25.01.2017 on the ground that the accused/A2 herein has not mentioned the fact about the rejection of the anticipatory bail petition by this Court before the trial Court and suppressing the fact, she has obtained an order before the learned District and Sessions Judge, Karur.

2.This fact has not been refuted by the learned Additional Public Prosecutor.

3.The matter already came up before this Court and notice has been duly served on the accused by the Government Advocate vide communication, dated 15.02.2017, which has also been received by the second accused under due acknowledgement.



4.It is also brought to the notice of this Court by the learned Additional Public Prosecutor that the order, dated 25.1.2017 of the learned District and Sessions Judge, Karur has not been complied with by the accused. The accused started complying with the order from 8.02.2017 to 19.02.2017 and the first condition that she could sign before the Police for one month has not been complied with. For the sake of convenience, condition No.2 in the order of the learned Principal District Judge, Karur, dated 25.01.2017 in CrI.M.P.No.84 of 2017 is extracted hereunder:

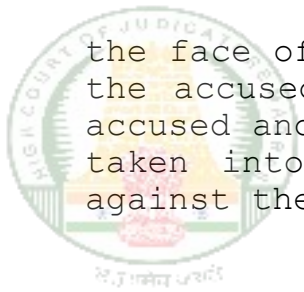
'2.She should appear before the respondent Police daily at 10.00 a.m and sign for one month and thereafter she should sign once in a fort-night on the first and 15th day of every month for the next three months.'

5.De-hors this order, taking note of the fact that there is suppression of material facts before the trial Court in obtaining the anticipatory bail, this Court is inclined to cancel the anticipatory bail granted by the learned District and sessions Judge, Karur in CrI.M.P.No.84 of 2017, dated 25.1.2017. It is true that the Honourable Apex Court in a decision in the case of **Arnesh Kumar .vs. State of Bihar and another reported in (2014) 8 Supreme Court Cases 273**, has held that Police Officer shall not arrest the accused unnecessarily and Magistrate shall not authorize detention casually and mechanically. But the said decision is applicable to the case registered under Section 498-A IPC, but in the case on hand, the offence alleged is under Section 494 IPC, that too, by a lady.

6. In this regard, it is worthwhile to refer to the judgement of the Hon'ble Apex Court in the case of **Padma Sundara Rao .vs. State of Tamil Nadu**, reported in **(2002) 3 SCC 533**, wherein it has been held as follows:

'9.Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances are made in the setting of the facts of a particular case, said Lord Morris in Herrington v. British Railways Board. Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases.'

7.Accordingly, this Criminal Original petition is allowed and the anticipatory bail granted to A2 by the learned District and Sessions Judge, Karur. in Cr.M.P.No.84 of 2017, dated 25.01.2017 is hereby cancelled. Generally, while dismissing/cancelling the anticipatory bail petition, this Court will not direct the respondent/Police to secure the accused. In the present case on hand, suppression of the fact before the trial Court is apparent on



the face of records and it amounts to playing fraud on the Court by the accused. Hence the respondent/Police is expected to secure the accused and take her into custody immediately. If the accused is not taken into custody, the department shall take appropriate action against the Police Officer, who is in-charge of this case.

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/ TRUE COPY /

sd/-
01/03/2017

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE DISTRICT AND SESSIONS JUDGE, KARUR
- 2 THE PRINCIPAL DISTRICT JUDGE, KARUR
- 3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
KARUR,
KARUR DISTRICT,
- 4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
KARUR,
KARUR DISTRICT
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1cc to M/s.S.GOKUL RAJ, Advocate, in SR No.11462

ORDER IN
CRL OP(MD) No.1652 of 2017
Date :01/03/2017

AAM-PM PN/SAR 3/10.04.2017 3P 6c