



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

Monday, the Seventeenth day of July Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD) No.8999 of 2017

R.RAJARAM

... PETITIONER/SOLE ACCUSED

Vs

STATE REPRESENTED BY,
THE SUB INSPECTOR OF POLICE,
MATHAGUPATTI POLICE STATION,
SIVAGANGAI DISTRICT.
CRIME NO.NOT KNOWN OF 2017

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.P.EDIN BROUGH Advocate

For Respondent : MR.A.RAMAR, Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

The petitioner/ Sole Accused apprehends arrest at the hands of the respondent police for the alleged offence punishable under Section 506(ii) I.P.C., in Crime No.Not known of 2017 on the file of the respondent police and hence, seeks anticipatory bail.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State.

3. The learned Additional Public Prosecutor would submit that on the basis of the complaint given by the de-facto complainant no case has been registered against the petitioner, but only petition enquiry is pending.

4. In cases where preliminary enquiry is being conducted by the police, the constitution Bench of the Hon'ble Supreme Court in **Lalita Kumari Vs. Government of Uttar pradesh** reported in (2014) 2 SCC 1 has held as follows:

"120.5. The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.



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120.6. As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:

- (a) Matrimonial disputes/family disputes
- (b) Commercial offences
- (c) Medical negligence cases
- (d) Corruption cases
- (e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months' delay in reporting the matter without satisfactorily explaining the reasons for delay.

The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

120.7. While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time-bound and in any case it should not exceed 7 days. The fact of such delay and the caused of it must be reflected in the General Diary entry."

5. Hence the petition enquiry is pending, the respondent police is directed to follow the dictum laid down by the Hon'ble Supreme Court and conduct a preliminary enquiry and till the enquiry is completed, the respondent police should not arrest the petitioner.

6. With the above direction, this Criminal Original petition is disposed of.

sd/-
17/07/2017

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

TO

1 THE SUB INSPECTOR OF POLICE,
MATHAGUPATTI POLICE STATION, SIVAGANGAI DISTRICT.

2 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.P.EDIN BROUGH Advocate SR.No.26638

PS
CSL/CM-MSA/SAR-I/20.07.2017 : 2P/4C