



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

Wednesday, the Fourteenth day of June Two Thousand Seventeen

WEB COPY

PRESENT

The Hon`ble Mrs.Justice J.NISHA BANU

CRL OP(MD) Nos.2677 to 2679 of 2017

SASIKALA PUSHPA

... PETITIONER / ACCUSED NO.2 IN
CRL OP(MD) No.2677 of 2017

LINGESHWARA THILAGAM

... PETITIONER / ACCUSED NO.3 IN
CRL OP(MD) No.2678 of 2017

R.GOWRI

... PETITIONER / ACCUSED NO.4 IN
CRL OP(MD) No.2679 of 2017

Vs

THE STATE REPRESENTED BY,
THE INSPECTOR OF POLICE
THISAYANVILAI POLICE STATION,
TIRUNELVELI DISTRICT,
CRIME NO. 68 OF 2017.
ALL THE CASES

... RESPONDENT / COMPLAINANT IN

For Petitioner : M/S.ISAC MOHANLAL FOR M/S.B.RAMASAMY Advocate IN
ALL THE CASES

For Respondent : MR.A.RAMAR, Additional Public Prosecutor IN
ALL THE CASES

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

ORDER : The Court Made the following order :-

The petitioners, who are arrayed as accused Nos.2 to 4, in Crime No.68 of 2017 on the file of the respondent police, apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 147, 148, 342, 365, 368, 465, 506(II) of I.P.C read with Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act and hence, seek anticipatory bail.

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2. The case of the prosecution is that the alleged occurrence had taken place on 20.02.2017 for which one Banumathy has forwarded a complaint to the respondent police through her advocate and the same was registered on 05.03.2017 as against one Suganthi, Advocate and

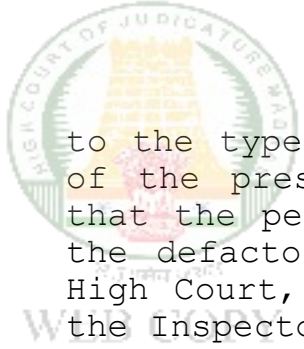


against the three petitioners and two others. In that complaint, she had alleged about the harassment meted out by her along with her sister, namely, one Jansirani at the hands of the afore-said accused, which resulted in lodging a complaint before the Inspector of Police, All Women Police Station, Pudukottai, Tuticorin District which was registered in Crime No.5 of 2016. It is the further case of the prosecution that on 22.02.2017, the said Suganthi called the said Banumathy to her mother-in-law's house and responding to the same, the defacto complainant had gone there and when she went there, she found that the accused/petitioners were also there. At that time, the accused/petitioners are said to have forced the defacto complainant to sign in a number of blank sheets by saying that the defacto complainant has to necessarily withdraw the complaint given by her in Crime No.5 of 2016 on the file of the Inspector of Police, All Women Police Station, Pudukkottai, Tuticorin District and for that purpose, she was taken to Madurai and stayed at K.P.S.Lodge, for getting signatures.

2.1. When that being so, the present complaint has been lodged stating that on 23.02.2017 around 3'0 clock, the said Suganthi had called the said Banumathy over her uncle's phone and asked her to come to her residence and accepting the same, she had to gone to her house, where, Suganthi along with the accused petitioners and two others were present. When they asked the defacto complainant to withdraw the complainant given by her, the accused/petitioners threatened with dire consequences and therefore, the defacto complainant made signatures in ten blank sheets given by the accused/petitioners. The defacto complainant further alleges that the petitioner in CrI.M.P(MD).No.2677 of 2017 herself prepared a compromise memo as if the matter was resolved between the accused and the defacto complainant and a copy of the same was handed over to the defacto complainant. Aggrieved over the attitude of the accused/petitioners, the defacto complainant met one Ms.Gnanabanu, an Advocate, Chennai and filed the present complaint against the petitioners/accused herein. Hence, the present criminal original petitions have been filed.

3. The respondent has filed a detailed counter affidavit, wherein, in paragraph No.3, it is stated that one K.Banumathi has preferred a complaint before the respondent police on 05.03.2017 at 2.00 p.m under Sections 147, 148, 342, 365, 368, 465, 506(II) of I.P.C and 195(A) of IPC and Section 4 of TNPHW Act and a case was registered against the said Advocate one Suganthi and other accused/petitioners. The specific case of the prosecution is that in order to withdraw the complaint in Crime No.5/2016, the defacto complainant was abducted and she was forced to illegally confined by the accused/petitioners and therefore, the present complaint in Crime No.68 of 2017 has been registered.

4. Learned Senior Counsel, Mr.Issac Mohanlal, appearing for the petitioners would submit that the present case came to be lodged due to the rivalry between the very same political party and the accused/petitioners and they have no way connected with the case as alleged by the prosecution. He would draw the attention of this Court



to the typed set of papers available at page No.21 filed in support of the present petition, wherein, it has been specifically stated that the petition was received by the Advocate of one Ganabanu from the defacto complainant in the Advocate, Chamber No.254, 1st Floor, High Court, Chennai and at the bottom, curiously, it is stated that the Inspector of Police, Tirunelveli District, received the case from Tisayanvilai Police and registered a case in Crime No.68/2017 which can be seen from the endorsement made by the Inspector of Police. The yet another point to be taken into consideration in this case is that, in the counter affidavit filed by the respondent, at paragraph No.3, it is stated that the complaint was given by the defacto complainant before the respondent police on 05.03.2017 at 2.00 p.m. Therefore, on the face of it, there is total contradiction between the counter affidavit and the endorsement made by the Inspector of Police, Tirunelveli District. He would further draw the attention of this Court to the affidavit filed in H.C.P.No.327 of 2017 filed by one Jansirani, wherein, the sister of Banumathi, namely, the said Jansirani has filed H.C.P.No.327 of 2017 on 02.03.2017, in which, so many allegations have been made against the said Anantharaj which would show the doubts about the complainant given by the two maids, namely, Banumathi and Jansirani, who had worked under the accused/petitioners. The present case is nothing but out of political vendetta it has been lodged against the accused/petitioners to tarnish the image of the petitioner in CrI.O.P(MD).No.2677 of 2017 and therefore, he prayed for granting anticipatory bail to the accused/petitioners.

5. The learned Additional Public Prosecutor has vehemently opposed for granting bail to the accused/petitioners stating that prima facie case has been made out against the accused/petitioners and prayed for the dismissal of this petition.

6. Heard the learned Senior Counsel appearing for the accused/petitioners and the learned Additional Public Prosecutor appearing for the respondents and perused the materials available on record.

7. On perusal of the entire records and the rival submissions, I find much force in the contentions of the learned Senior Counsel appearing for the respondents. As pointed out by him, it is seen that there are so many contradictions even on the complainant lodged by the defacto complainant. In this connection, it is useful to refer at page No.21 of the typed set of papers, wherein, it is stated that the Sub-Inspector of Police has stated that a complaint has been received from one Ganabanu, Advocate, No.254, Ist Floor, High Court, Chennai and again, at the bottom, there is an endorsement by the Inspector of Police, Tirunelveli District, that a petition has been received from the Sub-Inspector of Police, Tisiyanvilai given by the said Banumathi and registered a case in Crime No.68 of 2017. This Court is really at a loss to understand that there is no explanation as to why the Sub-Inspector of Police has gone all the way to the Chambers of the said Ganabanu, Chennai and on whose invitation, he has gone to Chennai to receive the petition given by the said Banumathi.



8. On the one hand, the case of the prosecution is that the complaint was received at Chennai and on the other hand, it is stated that in the counter that the complaint was given by the defacto complainant in the Police Station on 05.03.2017, at 2.00 p.m. Tirunelveli. The prosecution is unable to give explanation for the contradictions pointed out by this Court. In other words, though the prosecution has made strenuous attempt to sustain the case, there is total bereft of particulars on the side of the prosecution in connecting the events and happenings so as to draw a conclusion in filing the case against the accused/petitioners. Therefore, this Court is of the considered view that there are various circumstances to prove the manner in which the case has been filed by the respondent police which creates doubts in the minds of this Court as to the happenings narrated by the defacto complainant and the prosecution. For the foregoing reasons, this Court has no option but to consider the case of the accused/petitioners. On the whole, the balance of convenience is in favour of the accused/petitioners. At this juncture, this Court also registers its concern over the two servant maids and their future.

9. Considering the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners, with certain conditions. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned Judicial Magistrate, Nanguneri, Tirunelveli District and on each of them executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further condition that the petitioners shall appear before the Judicial Magistrate concerned once in a week. i.e. on every Monday at 10.30 a.m., until further orders. The petitioners shall also comply with the conditions stipulated under Section 438 Cr.P.C. Scrupulously.

10. The petitioners shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail stands dismissed.

sd/-
14/06/2017

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

TO

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1 THE JUDICIAL MAGISTRATE,
NANGUNERI
TIRUNELVELI DISTRICT



2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT

3 THE INSPECTOR OF POLICE
THISAYANVILAI POLICE STATION,
TIRUNELVELI DISTRICT,

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT
MADURAI

ORDER

IN

CRL OP(MD) Nos.2677 to 2679 of 2017

Date :14/06/2017

SVA/CM/MSA/16.06.2017/SAR1/5P/5C