



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.R.C.(MD)No.127 of 2018

and

Crl.M.P.(MD)No.1751 of 2018

1.Madhusoothanan @ Kannan
2.Chellathai
3.Muthukumar

: Petitioners/Respondents/
Accused Nos 1 to 3

Vs.

State Rep. by
The Inspector of Police,
Keelarajakularaman Police Station,
Virudhunagar District.
(Crime No.38 of 2017).

: Respondent/Respondent/
Complainant.

PRAYER: Criminal Revision Case is filed under Section 397(1) r/w 401 of the Criminal Procedure Code praying to call for the records in Cr.M.P.No.3627 of 2017 on the file of the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur and set aside the order dated 26.02.2018.

For Petitioners : Mr.A.Thiruvadi Kumar
For Respondent : Mrs.S.Bharathi,
Government Advocate (Crl.side)

ORDER

On the complaint lodged by one Kalyani, the respondent police registered a case in Crime No.38 of 2017 on 15.02.2017 under Sections 294(b), 506(2) of the Indian Penal Code and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 against the petitioners herein. The petitioners filed Cr.M.P.No.678 of 2017 before the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur, under Section 438 of the Code of Criminal Procedure seeking anticipatory bail, in which, the learned Judge, by order dated 24.02.2017, granted anticipatory bail to the petitioners on certain conditions, one of which is that they should report before the Investigating Officer every day at 05.30 p.m., for 25 days. It appears that the petitioners filed an extension application in Cr.M.P.No.2303 of 2017 before the Sessions Court and the same was also ordered on 21.07.2017. The petitioners



surrendered before the learned Judicial Magistrate, Rajapalayam and executed sureties on 29.07.2017. On the allegation that the petitioners did not comply with the order of anticipatory bail, the police filed Cr.M.P.No.3627 of 2017 for cancellation of the anticipatory bail before the Sessions Court, Virudhunagar District at Srivilliputtur. On notice, the petitioners entered appearance and filed their counter and submitted that the first and second petitioners had complied with the condition in full, but the third petitioner, who is working as a Conductor in the Tamil Nadu State Transport Corporation, did not report before the police for five days. When the petition was taken up for enquiry, the petitioners were neither present nor their counsel was present. Therefore, the learned Judge perused the records and heard the Public Prosecutor and passed the impugned order in Cr.M.P.No.3627 of 2017 on 26.02.2018 cancelling the anticipatory bail that was granted to the petitioners, challenging which, the petitioners are before this Court.

2. Heard Mr.A.Thiruvadi Kumar, learned counsel for the petitioners and Mrs.S.Bharathi, learned Government Advocate (Criminal side) for the respondent.

3. Mr.A.Harun Ersath, Sub-Inspector of Police, Keelarajakularaman Police Station is present in Court today.

4. On a reading of the impugned order, this Court does not find any serious infirmity therein, inasmuch as the petitioners did not bother to even appear before the Sessions Court nor did their counsel represent the case. Under such circumstances, the learned Sessions Judge has no other alternative but to pass such an order.

5. Under normal circumstances, this Court would loath to interfere into such orders, but, however, this Court finds that this is a case and counter case and the counter case is based on the complaint given by one Muthukrishnaveni, daughter of Chellathai against the opposite party. That apart, the offences alleged against the petitioners are not very serious in nature. In such view of the matter, interest of justice will be served, if the order is set aside and the matter is remitted to the Sessions Court for fresh disposal on certain conditions.

6. In the result, this Criminal Revision Case is allowed and the order dated 26.02.2018 in Cr.M.P.No.3627 of 2017 passed by the learned Principal District and Sessions Judge Virudhunagar District at Srivilliputtur is, hereby, set aside and the matter is remitted to the learned Principal District and Sessions Judge Virudhunagar District at Srivilliputtur for fresh hearing; all the petitioners shall appear before the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur at 10.30 a.m., everyday and before the respondent police at 05.30 p.m., everyday until the disposal of Cr.M.P.No.3627 of 2017. The hearing in Cr.M.P.No.3627 of 2017 shall begin on 12.03.2018.



7. The learned counsel for the petitioners submitted that the marriage of the third petitioner has been fixed on 19.03.2018 and, therefore, the presence of the petitioners before the Sessions Court and the police on 19.03.2018 and 20.03.2018 may be dispensed with.

8. Accepting the said submission, the petitioners need not appear either before the Sessions Court or the Police on 19.03.2018 and 20.03.2018 only. The Sessions Court is requested to complete the proceedings in Cr.M.P.No.3627 of 2017, within a period of four weeks from 12.03.2018. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar

To

1.The Principal District and Sessions Judge,
Virudhunagar District at Srivilliputhur.

2.The Inspector of Police,
Keelarajakularaman Police Station,
Virudhunagar District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr.A.Thiruvadi Kumar, Advocate, SR.No. 53835

Order made in
Cr1.R.C.(MD)No.127 of 2018
Dated:-
08.03.2018

SML

AM/SKN RSK/SAR 2/08.03.2018/3P/5C