



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

Friday, the Sixteenth day of February Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL MP (MD) No.11326 of 2017
IN
CRL OP (MD) No.12954 of 2017

SIRINSITHARA

... PETITIONER / PROPOSED RESPONDENT /
DEFACTO COMPLAINANT

Vs

1 ABDUL SITHITHICK
2 BARUKDEEN
3 RASINA BEGHAM

... RESPONDENTS 1 to 3/ PETITIONERS
ACCUSED Nos.1 to 3

4 THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
PALANI, DINDIGUL DISTRICT

...4th RESPONDENT / RESPONDENT/
COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to cancel the Anticipatory Bail granted to the respondents No.1 to 3 by this Honourable Court in Crl.O.P.No. 12954 of 2017 dated 27/09/2017.

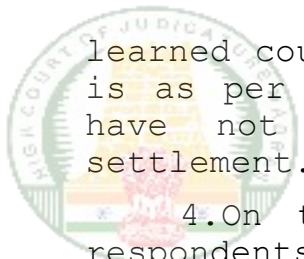
Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.R.JEGADEESWARAN, Advocate for the petitioner and of Mr.T.LENIN KUMAR, Advocate for Intervenor for R1 to R3 , Mr.A.ROBINSON, Government Advocate(Crl.Side) on behalf of the Respondent R4, the court made the following order:-

This petition has been filed to cancel the anticipatory bail granted to the respondents 1 to 3 by this Court in Crl.O.P.(MD) No.12954 of 2017, dated 27.09.2017.

2.The case of the prosecution is that the petitioner / de facto complainant is the wife of the first respondent and the respondents 2 and 3 are the mother-in-law and father-in-law of the petitioner and she lodged a complaint against the respondents / accused stating that they harassed her and also threatened her with dire consequences.

<https://hcservices.ecourts.gov.in/hcservices/>

3.The submissions made by the learned counsels appearing on either side are considered. The only contention raised by the



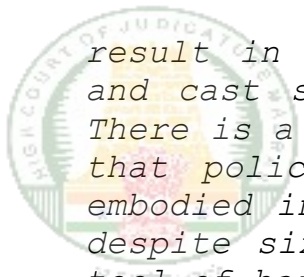
learned counsel appearing for the petitioner / de facto complainant is as per the order passed by this Court, the respondents 1 to 3 have not appeared before the Mediation Centre for amicable settlement.

4. On the other hand, the learned counsel appearing for the respondents 1 to 3 submitted that already the issue was settled out of Court and the de facto complainant joined with the first respondent / husband and they have lived in the matrimonial house for some time. Subsequently, she left the matrimonial house without any reason. Thereby, the first respondent issued thalak notice to the de facto complainant.

5. More over, the learned Government Advocate (Crl.side) appearing for the fourth respondent submitted that at the time of granting anticipatory bail in Crl.O.P.(MD)No.12954 of 2017, no case is registered for the dispute between the de facto complainant and the respondents 1 to 3. So without knowing the nature of offence committed by the respondents, this Court is not in a position to cancel the anticipatory bail, which was already granted to the respondents 1 to 3.

6. Considering the submissions made by the learned counsels appearing on either side, it would appear that the offence committed by the respondents / accused is only a matrimonial offences. Since the alleged offence was happened between the family members of the petitioners and the de-facto complainant, it is necessary to follow the decision of our Hon'ble Supreme Court in **Arnesh Kumar Vs State of Bihar and another [Crl.A.No.1277 of 2014]**, wherein it has been held as follows:

"There is phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-A of the IPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-A is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under the provision. In a quite number of cases, bed-ridden grand-fathers and grand-mothers of the husbands, their sisters living abroad for decades are arrested. "Crime in India 2012 Statistics" published by National Crime Records Bureau, Ministry of Home Affairs shows arrest of 1,97,762 persons all over India during the year 2012 for offence under Section 498-A of the IPC, 9.4% more than the year 2011. Nearly a quarter of those arrested under this provision in 2012 were women ie. 46, 951 which depicts that mothers and sisters of the husbands were liberally included in their arrest net. Its share is 6% out of the total persons arrested under the crimes committed under Indian Penal Code. It accounts for 4.5% of total crimes committed under different sections of penal code, more than any other crimes excepting theft and hurt. The rate of charge-sheeting in cases under Section 498-A of the IPC is as high as 93.6% while the conviction rate is only 15%, which is lowest across all heads. As many as 3,72,707 cases are pending trial of which on current estimate, nearly 3,17,000 are likely to



result in acquittal. Arrest brings humiliation, curtails freedom and cast scars forever. Law makers know it so also the police. There is a battle between the law makers and the police and it seems that police has not learnt its lesson; the lesson implicit and embodied in the Cr.P.C. It has not come out of its colonial image despite six decades of independence; it is largely considered as a tool of harassment, oppression and surely not considered a friend of public. The need for caution in exercising the drastic power of arrest has been emphasized time and again by Courts but has not yielded desired result. Power to arrest greatly contributes to its arrogance so also the failure of the Magistracy to check it. Not only this, the power of arrest is one of the lucrative sources of police corruption. The attitude to arrest first and then proceed with the rest is despicable. It has become a handy tool to the police officers who lack sensitivity or act with oblique motive"

7.Hence, considering the above judgment of Hon'ble Apex Court, it is duty of the Police Officials not to harass the accused, who are all involved in the offences punishable with seven years. Only in extraordinary circumstances, arrest can be made.

8.In the present case, the learned counsel appearing for the petitioner / de facto complainant does not indicate any extraordinary circumstances, in which, arrest of the respondents / accused is necessary. Further more, so far, mediation process also has not been completed. Accordingly, the reasons stated by the petitioner / de facto complainant for cancellation of anticipatory bail are not having any merits.

9.In view of the above, this Criminal Miscellaneous Petition is dismissed.

sd/-
16/02/2018

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

TO

1 THE JUDICIAL MAGISTRATE,
PALANI,
DINDIGUL DISTRICT

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
DINDIGUL DISTRICT



3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
PALANI, DINDIGUL DISTRICT

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

+1. C.C. to M/S.R.JEGADEESWARAN Advocate SR.No.2636

+1 CC TO Mr.T.LENIN KUMAR , Advocate, Sr.No. 2692

GNS

JAM/07/03/2018/ PM-PN / SAR 3/ 4P-7C

ORDER

IN

CRL MP (MD) No.11326 of 2017

IN

CRL OP (MD) No.12954 of 2017

Date :16/02/2018