

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 08.02.2018****CORAM:****THE HONOURABLE MR. JUSTICE R.PONGIAPPAN****Crl.O.P. (MD)No.16881 of 2017**

Saraswathi Ammal ...Petitioner/Defacto Complainant

Vs.

1. Archunan

2. Pandiselvi

...Respondents 1 and 2/
Petitioners/Accused 1 and 33. State through the
Sub Inspector of Police,
Kadupatti Police Station,
Kadupatti, Madurai District....3rd Respondent/Respondent/
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to cancel the order of bail dated 29.08.2017 passed in Crl.M.P.No.595 of 2017 in Crime No.277 of 2017 on the file of the Judicial Magistrate, Vadipatti.

For Petitioner : M/s.P.Jessi Jeeva Priya
For R-1 & R-2 : No appearance
For R-3 : Mr.A.Robinson
Government Advocate(Crl.side)

O R D E R

The petitioner/defacto complainant filed this petition seeking the relief to cancel the order of bail dated 29.08.2017 passed in Crl.M.P.No.595 of 2017 in Crime No.277 of 2017 on the file of the Judicial Magistrate, Vadipatti.

2.The case of the prosecution is that due to civil dispute the accused persons trespassed into the land of the defacto complainant and forcibly taken the board laid by the defacto complainant, scolded and assaulted the defacto complainant with stick and threatened her.

3.The learned counsel for the petitioner submitted that since the respondents 1 and 2 do the same kind of offence and mischief and trying to enter into the possession and enjoyment of the petitioner's property, he prays to cancel the order of bail



granted in favour of the respondents 1 and 2 in CrI.M.P.No.595 of 2017, dated 29.08.2017.

4. Heard the learned Government Advocate (CrI. Side) appearing for the State.

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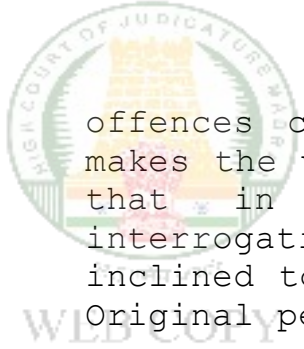
5. The submissions made by the learned counsels appearing for either side are considered. The case has been registered against the petitioner under Section 447, 294(b), 323 and 506(ii) and Section 4 of Tamilnadu Prohibition of Woman Harassment Act. After considering the entire facts and circumstances of the case, the trial Court granted bail in favour of the respondents 1 and 2. Now, the defacto complainant filed this application to cancel the bail already granted in favour of the respondents 1 and 2 by the Trial Court.

6. The first and foremost contention raised by the counsel appearing for the petitioner is before registering the case, the High Court has passed an order in CrI.O.P(MD).No.22397 of 2013, in which the Inspector of Police, Kadupatti Police Station, Madurai District was directed to give necessary protection to the defacto complainant to enter into the property, which was now under dispute. But, without considering that aspects, the Trial Court granted bail in favour of the respondent herein, which is not justifiable.

7. On the other hand, the learned Government Advocate appearing for the State would submit that only on considering the averments made in the complaint given by the defacto complainant, the case has been registered. Thereafter, after considering the truth available in the investigation, the same was represented before the Trial Judge for considering the bail application.

8. Now, on go through the order passed by the Trial Court, it would appear that since the alleged complaint is lodged by the defacto complainant/complainant due to the dispute over the property, custodial interrogation is not necessary and thereby granted bail in favour of the respondents 1 and 2. This Court is also approved the view taken by the Trial Judge as the petitioner herself admitted that before the registration of the case they are having civil litigation in various forum. Furthermore, the allegations levelled against the respondent in the complaint given before the police indicated only for the offences mentioned in the FIR. Apart from that in the alleged offences nobody was injured and also the property worth about minimum price alone was damaged. Thereby the offences committed by the respondents are not grave in nature.

<https://hcservices.equass.in/hcservices>, the petitioner and respondents 1 and 2 are having permanent residence in the locality mentioned in the petitions herein. Accordingly, considering the gravity of the



offences committed by the respondents 1 and 2, this Court also makes the view taken by the Trial Judge and come to the conclusion that in order to complete the investigation custodial interrogation is not necessary. Accordingly, this Court is not inclined to cancel the bail already granted. Hence, this Criminal Original petition is dismissed.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate, Vadipatti.
2. The Sub Inspector of Police,
Kadupatti Police Station,
Kadupatti, Madurai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.M/s.P.Jessi Jeeva Priya, Advocate Sr.No.47330

CP/TM

VB/KKR/SAR3/01.03.2018/3P/5C

Cr1.O.P.No.16881 of 2017
08.02.2018