



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

Monday, the Twelfth day of November Two Thousand Eighteen

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PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) Nos.19208 & 19211 of 2018

V.S.EMERSON JELSINGH

... PETITIONER/SOLE ACCUSED
IN BOTH THE PETITIONS

Vs

1 STATE OF HARYANA,
REP BY INSPECTOR OF POLICE,
SHIVAJI NAGAR POLICE STATION,
GURUGRAM DISTRICT,
HARAYANA STATE.

2 STATE OF TAMIL NADU,
REP BY INSPECTOR OF POLICE,
WORAIYUR POLICE STATION,
TRICHY.

... RESPONDENTS/COMPLAINANTS
IN BOTH THE PETITIONS

For Petitioners : MR.K.K.SENTHIL, Advocate
IN BOTH THE PETITIONS

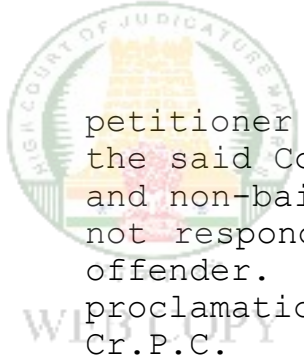
For Respondent : MR.S.CHANDRASEKAR, Additional Public Prosecutor,
IN BOTH THE PETITIONS

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for an alleged offence punishable under Section 174-A of IPC., respectively in F.I.R.Nos.448 & 391 of 2018, pending on the file of the Inspector of Police, Shivaji Nagar Police Station, Gurugram District, Haryana State, seeks anticipatory bail.

2. The case of the prosecution is that one M/s.Educomp Solutions Ltd., New Delhi had instituted a complaint, under Section 138 of Negotiable Instruments Act, in C.C.No.14726 of 2016 and C.C.No.1225 of 2017, on the file of the learned Judicial Magistrate Court I Class, Gurgaon, Haryana, alleging that the cheque issued by the petitioner got dishonoured. In spite of statutory Notice, the



petitioner had not paid the amount and also failed to appear before the said Court inspite of summons being issued, followed by bailable and non-bailable warrants have been issued. Since the petitioner has not responded the same, the petitioner was declared as proclaimed offender. The FIRs came to be registered in response to the proclamation order made against the petitioner under Section 82 of Cr.P.C.

3. Mr.K.K.Senthil, the learned counsel appearing for the petitioner would submit that the petitioner, who is Correspondent of four Schools in Karur and Trichy Districts, had entered into a business agreement with one M/s.Educomp Solutions, Ltd., New Delhi and its sister concern, M/s.Edumart Services, New Delhi, to provide repository of digital curriculum and support service. Pursuant to the agreement, certain works were done by the Company in three Schools of the petitioner and no work was done in one School, as there was no proper infrastructure to commence the work by the said Firm and hence, dispute arose between them. Finally, it was agreed between the petitioner and the said Company to amicably settle the issue and final settlement was arrived at a sum of Rs.22,50,000/-, which was paid by the petitioner. However, the said Firm, suppressing the same, had initiated arbitration proceedings and obtained an ex-parte Award and as against that, the petitioner has filed set aside application and is pending. In the meanwhile, the said Firm had initiated the proceeding under Section 138 of Negotiable Instruments Act, before the learned Judicial Magistrate I Class, Gurugram in C.C.Nos.14726 of 2016 and C.C.No.1225 of 2017 respectively. Since the petitioner has failed to respond, bailable and non-bailable warrants were issued. Pursuant to that, the said Court had issued proclamation orders, as a result of which, the above two cases came to be registered against the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondents, on instructions, would submit that if anyone is declared as an proclaimed offender, in terms of Section 82 of Cr.P.C., is not entitled to the relief of anticipatory bail. In support of his contentions, he relied on a decision of the Hon'ble Apex Court in **Lavesh Vs. State (NCT of Delhi)** reported in **(2012) 8 SCC 730**, and an yet another decision of Hon's Apex Court in **State of Madhya Pradesh Vs. Pradeep Sharma**, reported in **(2014) 2 SCC 171**, for the proposition that proclaimed offender, in terms of Section 82 of Cr.P.C., is not entitled to the relief of anticipatory bail.

5. Admittedly, the petitioner has been declared as proclaimed offender, under Section 82 of Cr.P.C. by the competent Court. In view of the dictum laid down by the Hon'ble Apex Court in the Judgment reported in **(2012) 8 SCC 730**, and in **(2014) 2 SCC 171**, (cited supra), this Court is not inclined to grant the relief of anticipatory bail to the petitioner. The petitioner has to approach the concerned Court and seek remedy.



6. In the result, this Criminal Original Petitions are dismissed.

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sd/-
12/11/2018

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

TO

- 1 THE INSPECTOR OF POLICE,
SHIVAJI NAGAR POLICE STATION,
GURUGRAM DISTRICT, HARAYANA STATE.
- 2 INSPECTOR OF POLICE,
WORAIYUR POLICE STATION,
TRICHY.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+2. CC to M/S.K.K.SENTHIL Advocate SR.Nos.94925,94926

ORDER IN
CRL OP(MD) Nos.19208 & 19211 of 2018
Date :12/11/2018

MPK
PK/JC/SAR-4/22.11.2018 : 3P/6C