



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

Friday, the Twenty First day of December Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.22494 of 2018

1 CT. SUBRAMANIAN
2 K. CHIDAMBARAM
3 LAKSHMI
4 NIROSHA
5 K. KUMAR @ KARUPPIAH ... PETITIONERS / ACCUSED RANK NOT KNOWN

Vs

THE STATE REP.BY ITS
THE INSPECTOR OF POLICE,
SAKKOTTAI POLICE STATION,
SIVAGANGAI DISTRICT.

... RESPONDENT / RESPONDENT

For Petitioners : Mr.RM.ARUN SWAMINATHAN Advocate

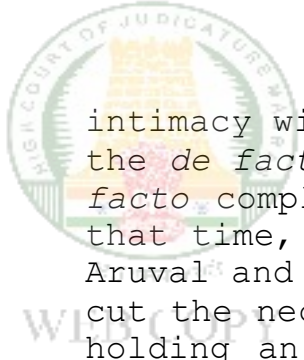
For Respondent : Mr.S.CHANDRASEKAR, Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

The petitioners, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 147, 294(b), 452, 336, 506(ii) I.P.C and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 2002, in Crime No. (*)331 of 2018, seek anticipatory bail.

2.The *de facto* complainant is the wife of the first accused. The other accused are the in laws of the *de facto* complainant. The marriage between the first accused and the *de facto* complainant were took on 01.06.2014. At the time of marriage, the *de facto* complainant's family had given seethana articles to their marriage. Out of their wedlock, one Lakshika was born to them. The case of the prosecution is that on 04.12.2018, at about 04.00 P.M. when the *de facto* complainant was along with her child, the in laws had entered into the portion which was occupied by the *de facto* complainant and threatened with dire consequences. The first petitioner is said to have running a mobile showroom in the name of Lena Mobiles at Karaikudi and he had developed illegal intimacy with one Surya, who was working in the shop which was condemned by the petitioner. Thereafter, the petitioner is now having illegal



intimacy with one Dhana Lakshmi @ Roja. When this was questioned by the *de facto* complainant, the accused and their family abused the *de facto* complainant and they only supported the first petitioner. At that time, the mother in law / Accused No.2 threatened her with an Aruval and asked her to leave the house and further alleged that she cut the neck of the *de facto* complainant. The first petitioner was holding an iron rod and Accused No.3 / Sister-in-law of the first accused were having a stick and attempted to assault her. They abused the *de facto* complainant by using filthy language. Hearing the crying sound of the *de facto* complainant, the neighbours rushed into the house and pushed her out. Hence, a case has been registered against the petitioners herein.

3.The contention of the petitioners is that the *de facto* complainant had earlier lodged a complaint before the All Women's Police Station, karaikudi, which was registered in Crime No.20 of 2017 on 22.12.2017, against the first, third and fourth petitioners herein and thereafter, on completion of investigation, a charge sheet has been filed, which was taken on file in C.C.No.448 of 2018, pending before the learned Judicial Magistrate, Karaikudi.

4.The learned counsel appearing for the petitioner would submit that the *de facto* complainant in this case had left the matrimonial home on 10.04.2017. In the meanwhile, she had also filed a case under the Domestic Violence Act which is also pending in the same Judicial Magistrate Court in D.V.O.P.No.5 of 2018. The *de facto* complainant had filed a complaint against the first petitioner and also two other complaints were pending against the first petitioner in Crime Nos.525 and 592 of 2018, on the file of the KalaiyarKovil Police Station and he was arrested in those cases and now, he has come out on bail on 04.12.2018. Thereafter, this case has been filed against him. He would further submit that the *de facto* complainant made a false complaint against the family members of the first accused. However, D.V.O.P. case has been dismissed for non prosecution. In order to wreck vengeance, the *de facto* complainant made a false case against the petitioners.

5.The learned counsel appearing for the petitioners further submits that the fourth petitioner is five months pregnant and today morning at about 05.00 a.m. at the earlier hours, the respondent Police asked her to attend the enquiry. This case was earlier posted before the Vacation Court, since the learned counsel appearing for the petitioner made a representation that the fourth petitioner is five months pregnant and the respondent asked the fourth and fifth petitioners to appear for investigation despite the plea of the fourth petitioner being five months pregnant, the case was taken up today.

6.The learned Government Advocate (Crl.side) would submit that investigation is pending. He vehemently opposed the grant of anticipatory bail to the petitioner.



7. Taking into consideration the facts of the case and the submissions made by learned counsel on either side, this Court is inclined to grant anticipatory bail to the petitioners.

8. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Karaikudi, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with one sureties, each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the said Magistrate, on further condition that:

[a] if the petitioners fail to surrender before the said Magistrate within a period of fifteen days, this Order shall stand automatically cancelled.

[b] the petitioners shall report before the respondent police as and when required for interrogation.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
21/12/2018

**(*) AMEDNED AS PER THE ORDER OF HON'BLE
COURT MADE IN CRL MP(MD)10744/2018
IN CRL OP(MD)22494/2018 VIDE ORDER
DATED 21.12.2018 BY MNKJ**

/ TRUE COPY /



TO

1 THE JUDICIAL MAGISTRATE,
KARAIKUDI.

2 THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI.

3 THE INSPECTOR OF POLICE,
SAKKOTTAI POLICE STATION,
SIVAGANGAI DISTRICT.

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

+1. CC to MR.RM.ARUN SWAMINATHAN Advocate SR.No.23870

PS/PN-AC/SAR-3/24.12.2018/4P/6C

ORDER

IN

CRL OP (MD) No.22494 of 2018

Date :21/12/2018