



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

Friday, the Fourth day of January Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.13584 of 2018

M.MUTHUKUMAR

... PETITIONER / SOLE ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
ALL WOMENPOLICE STATION,
ANDIPATTI, THENI DISTRICT.
(CRIME NO.11 OF 2018)

... RESPONDENT / COMPLAINANT

For Petitioner : MR.G.THALAIMUTHARASU Advocate

For Respondent : MR.K.SUYAMBULINGA BHARATHI,
Govt. Advocate (Crl. Side)

For Intervenor : Mr.C.JEGANATHAN, Advocate
FOR M/S.VEERA ASSOCIATES

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

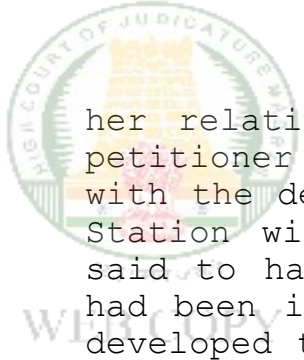
ORDER : The Court Made the following order :-

Order Reserved On:19.12.2018

Pronounced On: 4.01.2019

The petitioner/accused, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 417, 420, 323, 294(b), 506(i) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, in Crime No.11 of 2018, seeks anticipatory bail.

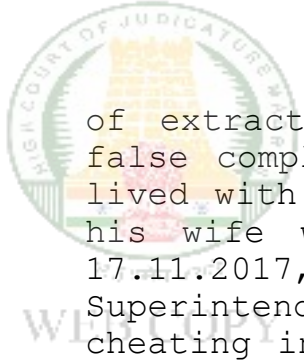
2. The case of the prosecution is that the defacto complainant was earlier married on 08.11.2000 with one Mohan and out of such marriage, she had a female child, who is now aged about 15 years. Due to matrimonial dispute between them, during the year 2014, they have separated and they have been granted divorce in H.M.O.F.No.138 of 2014 by Uthamapalayam Sub-Court. Thereafter, during December 2015 vacation, the defacto complainant had gone to



her relative's house at Soolur, Coimbatore District. There, the petitioner who was working as Sub-Inspector of Police was befriended with the defacto complainant, when she happened to go to the Police Station with regard to some dispute. Thereafter, the petitioner said to have got the mobile number of the defacto complainant and had been in constant touch with her and apart from that, they had developed their relationship and they had physical contacts between them on several occasions. Thereafter, on the compulsion of the defacto complainant's family members, on 12.03.2017, the petitioner had married the defacto complainant at his village house at Andipatti. Since then, they have been living as husband and wife. The petitioner had earlier stated that he had a tainted relationship with his wife and she has been living separately and his two children have been taken care of by his family members. Believing the same, the defacto complainant had continued her relationship to such extent. During this time, the petitioner had taken cash of Rs.1,75,000/- on several occasions and 18 sovereigns of gold jewels from the defacto complainant for the urgent medical expenses to his family members.

3.At this stage, to the shock and surprise of the defacto complainant, on 17.05.2017, the wife of the petitioner had called the defacto complainant and spoke to her. When the same was questioned by the defacto complainant, the petitioner was not giving proper reason. On 09.06.2017, the petitioner had started a quarrel and thereafter, physically assaulted the defacto complainant, for which she had taken treatment at a hospital and on 25.07.2018, the petitioner came and stayed with the defacto complainant at Andipatti, during that time, she was not well and taken treatment at Andipatti. On 27.10.2017, the petitioner had assaulted the defacto complainant brutally and caused several injuries. When the defacto complainant stated that she would lodge a complaint against the petitioner, he claimed that no police action could be taken against him, since he is working the Police Department. On the complaint lodged by the defacto complainant before the All Women Police Station, Andipatti, CSR.Number has been assigned on 13.07.2018. Thereafter, on 16.07.2018, F.I.R in this case came to be registered.

4.The contention of the petitioner is that the defacto complainant is a distant relative of the petitioner, whose antecedents and personal life is not appreciable. The defacto complainant has involved in two criminal cases. One is on the complaint of her erstwhile husband Mohan in Cr.No.858 of 2014 by the Theni Police Station for the offence under Sections 147, 294(b) and 506(i) I.P.C and another case of kidnapping has been registered against her by one Sudharshanam in Cr.No.171 of 2014 on the file of the Devaram Police Station for the offence under Sections 448, 323, 452, 355, 120(b) and 506(i) I.P.C. The second son of the petitioner is a genetically disordered child and the defacto complainant, who had visited her relative's house and living nearby the petitioner's residence used to visit the said child under the guise of taking care of the child and taking advantage of the same, for the purpose



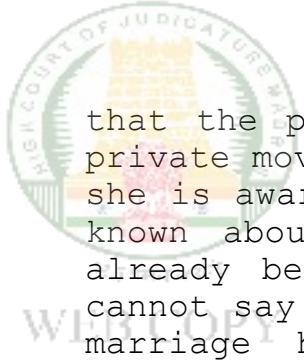
of extracting money from the petitioner, she had preferred this false complaint. At no point of time, the petitioner married and lived with her. The petitioner is already married and living with his wife without any remarks. Further, it is averred that on 17.11.2017, the defacto complainant had sent a complaint to the Superintendent of Police in which, she had not averred any plea of cheating involving the jewels and cash taken by the petitioner and also about physical assault and injuries sustained by her. The defacto complainant had been improving her case by way of giving a false complaint at each stage against the petitioner.

5.The petitioner had also filed a typed set in which F.I.R against the defacto complainant, the complaint given by the defacto complainant to the Superintendent of Police and the information received from the Inspector of Police, Kinatthukadavu Police Station have been filed.

6.From the information received from the Inspector of Police, Kinatthukadavu Police Station, it is seen that on 21.10.2017, the petitioner has reported to duty at the Kinathukadavu Police Station at 8.30 a.m and he was in the Police Station in duty upto 8.00 p.m on that day. The specific case of the defacto complainant is that on 21.10.2017 at about 9.00 a.m, she was physically assaulted. Likewise on perusal of the complaint given by the Superintendent of Police, there is no mention about any handing over of jewels and cash to the petitioner. Further for the complaint given on 22.11.2017 before the All Women Police Station, Andipatti, CSR.No.285/2017 has been assigned, enquiry has been conducted on 10.12.2017 by the Superintendent of Police, Coimbatore, wherein, during enquiry, both the defacto complainant and the petitioner were advised to sort out their issues and in pursuant to the same, CSR was closed on the statement given by the defacto complainant that no further action need to be taken.

7.The defacto complainant had filed a petition and submitted a typed set to show that she had taken treatment on 09.06.2017 at Richmond Ortho Clinic at Soolur and on 06.03.2017 at Women Care Hospital, Theni and on 25.07.2017, she had taken treatment at Andipatti. Further, in the petition, the defacto complainant reaffirmed the fact that a marriage had taken place on 12.07.2017, at the residence of the defacto complainant in the presence of family members and also the fact that she had handed over a cash of Rs.1,75,000/- and 18 sovereigns of jewels to the petitioner. The defacto complainant had averred that taking advantage of the fact that she is a divorcee, the petitioner made use of her in all aspects including physical, but now, he is refusing to take care as her wife.

8.It is seen that several complaints have been lodged by the defacto complainant before the All Women Police station, Andipatti and the Superintendent of Police and detailed enquiry has been conducted and the photographs produced before this Court show



that the petitioner and the defacto complainant were in close and private movements. No doubt, the defacto complainant is a major and she is aware of what she is doing. Being a person, who had already known about the police Station and criminal cases and in fact, already been arrested in one of the cases above mentioned, she cannot say that she had been misled by the petitioner and thereby a marriage had taken place between the petitioner and defacto complainant on 12.07.2017. It is strange that a photograph of private movements has been produced, but, no photograph of marriage is produced. Hence, the marriage itself is unbelievable, questionable and no other contemporary documents are produced.

9.The learned Government Advocate (Crl.Side) appearing for the respondent, on instructions, would submit that it is true that the defacto complainant had two criminal cases. Earlier complaint given by the defacto complainant was closed. Investigation reveals that the petitioner was on duty at Kinathukadavu Police Station on the date and time of assault and investigation is in progress.

10.Considering the rival submissions and also considering the above facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner, with certain conditions;

11.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate, Antipatti, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further condition that;

[a] if the petitioner fails to surrender before the said Magistrate within a period of fifteen days, this Order shall stand automatically cancelled;

[b] the petitioner shall report before the respondent Police daily at 10.00 a.m for interrogation for a period of two weeks, thereafter as and when required;

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[d] the petitioner 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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.

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sd/-
04/01/2019

/ TRUE COPY /

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

TO

1. THE JUDICIAL MAGISTRATE,
ANDIPATTI.
2. DO THRO' THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.
3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
ANDIPATTI, THENI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to MR.G.THALAIMUTHARASU Advocate SR.No.136
+1. CC to M/S.VEERA ASSOCIATES, Advocate SR.No.162

ORDER
IN
CRL OP(MD) No.13584 of 2018
Date : 04/01/2019

AE/VR/SAR4/08.01.2019/5P/7C