BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 16/12/2019

PRESENT

The Hon'ble Mr.Justice G.R.SWAMINATHAN

CRL OP(MD). No.18024 of 2019

1. C. Sundaram
2. C.Somasundaram
3. C.Karthick
4. Ramayee ... Petitioners/Accused Nos.1 to 4

Vs

State through
The Inspector of Police,
City Crime Branch, Trichy City,
Trichy.
Cr.No.49 of 2019. ... Respondent/Complainant

N.Swarnalatha ... Petitioner/Intervener (Crl.MP(MD)No.10852 in Crl.OP(MD)No.18024/2019

For Petitioners : M/s. A.N.Ramanathan, Advocate.
For Respondent : Mr.A.Robinson,
Government Advocate (Crl.Side)
For Intervenor : Mr.B.Saravanan

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

PRAYER :- For Anticipatory Bail Crime No.49 of 2019 on the file of the Respondent police.

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioners, learned counsel appearing for the intervenor and the learned Government Advocate(Crl. Side) appearing for the respondent police.

2.The petitioners apprehending arrest at the hands of the respondent police for the offences punishable under sections 468, 471 and 420 of I.P.C., in Crime No. 49 of 2019 on the file of the respondent police, seek anticipatory bail.

3.The case of the defacto complainant is that she got married to the first petitioner C.Sundaram in the year 2015. A girl child was also born through the wedlock. Their marital relationship had come under strain. She alleges that her signatures were forged and a number of bank accounts were opened in her name. Cheque books were obtained. In those cheques, her signatures were forged and handed over to the persons who are either known to or related to the first petitioner. Through them, the cheques were presented for collection and after they were dishonored, prosecutions were initiated under Section 138 of the Negotiable Instruments Act against the defacto complainant.

4.The complainant's counsel furnished a list of such cases that were filed in various Courts in Tamil Nadu and in Bengaluru. While some of the cases were withdrawn, others are still pending. The details of the case withdrawn are as follows :

SI. No.	Case No.	Name of Court	Cheque cases	Status of case
1.	C.C.No.607 of 2018	IV Additional SCJ, Bengaluru	Harshita Vs. Swarnalatha	Case withdrawn by Complainant on 01.02.2019
2.	C.C.No.2935 of 2018	IV Additional SCJ, Bengaluru	Kishore Kumar Vs. Swarnalatha	Case withdrawn by Complainant on 01.02.2019
3.	C.C.No.606 of 2018	IV Additional SCJ, Bengaluru	Kishore Kumar Vs. Swarnalatha	Case withdrawn by Complainant on 01.02.2019
4.	C.C.No.3022 of 2018	IV Additional SCJ, Bengaluru	N.H.Rudresh Vs. Swarnalatha	Case withdrawn by Complainant on 01.02.2019
5.	P.C.R.No.3355 of 2018	IV Additional SCJ, Bengaluru	Prathap Vs. Swarnalatha	The complaint is dismissed for non proseuction on 31.10.2019

While one suffered a dismissal for non prosecution, nine cases are still pending as on date.

5.The defacto complainant's counsel drew my attention to the order passed by the National Company Law Tribunal, Bengaluru, in C.P.No.617/BB/2018, dated 20/09/2019. The said petition was filed by the defacto complainant against M/s.Colour Books Associates Private Limited, the first petitioner herein and a chartered accountant. The defacto complainant wanted the removal of the company from the register of the Registrar of Companies and for cancellation of the certificate of incorporation. She also wanted the Registrar of Companies, Karnataka, Bengaluru to initiate criminal investigation for fraud under Section 447 of the Companies Act, 2013 against Sundaram Chockalingam and the Chartered Accountant R.Madesh Nayak. The Tribunal noted that the said company was incorporated on 14.05.2018. The defacto complainant Ms.Nagappan Swarnalatha and Sundaram Chockalingam were shown as shareholders and the Directors of the said company. Though they got married on 20.05.2015, the relationship between them got strained soon thereafter and the defacto complainant, the petitioner before the Tribunal filed criminal cases under various provisions of IPC and Information Technology Act and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 on various dates, ie., 15.12.2017, 29.01.2018 and 26.02.2018.

6.The defacto complainant herein had also issued a legal notice dated 16.11.2017 for dissolving the marriage on the ground of cruelty. Sundaram Chockalingam replied on 29.11.2017. The defacto complainant had also filed HMOP No.425 of 2015 before the Family Court, Trichirappalli seeking dissolution of the marriage on the ground of cruelty. Even as the matrimonial battle was going on, the defacto complainant came to know about the incorporation of the company in question on 14.05.2018 by inclusion of her name. Therefore, the aforesaid petition came to be filed before the Tribunal. The first petitioner herein filed his statement of objections. After hearing the rival contentions, the Tribunal observed that it is not in dispute that Sundaram Chockalingam himself initiated the process of incorporation of the company by engaging the service of the Chartered Accountant Thiru.Madesh Nayak. The Chartered Accountant admitted that he did not witness Swarnalatha Nagappan signing the relevant documents. He went by what Sundaram Chockalingam projected before him. After extracting the relevant statutory provision, the Tribunal observed that the Chartered Accountant had given a false declaration that Swarnalatha Nagappan signed the requisite documents before him. The Tribunal further observed that it is crystal clear even to naked eyes that the signatures on the documents filed for the incorporation of the company do not tally with her admitted signatures found in other documents such as Driving License, Voter I.D card, Passport etc., When admittedly the parties are not living together from July 2017 and locked in a bitter dispute and when criminal cases have been filed, it is simply unbelievable that her signature could have been affixed on later date ie., 14.05.2018. The Tribunal observed that the incorporation of the company in question was vitiated by fraud. The petition filed by the defacto complainant was allowed vide order dated 20.09.2019.

7.Thus, there is a strong material against the first petitioner herein in the form of finding given by a Judicial Tribunal. The defacto complainant is a young woman in her middle 20s. She is having a young child. The first petitioner has not only ditched and abandoned her, but is also harassing her in every possible manner.

Of-course, it is not as if the other petitioners can be viewed with indulgence. They have joined together with the first petitioner in presenting the forged cheques and filing complaints under Section 138 of the Negotiable Instruments Act on that basis.

8.For Instance, an Advocate by name S.Soundari had issued notice under Section 138 of the Negotiable Instruments Act against the defacto complainant on behalf of one A.Christuraj. The very same advocate S.Soundari appeared for the petitioners herein before me also. Of-course, there is no statutory or even ethical bar against such appearance. But broadly it indicates the connivance between the first petitioner C.Sundaram on the one hand and the complainants in the cases filed under Section 138 of the Negotiable Instruments Act on the other.

9.The learned counsel appearing for the defacto complainant also showed me the photographs from twitter indicating that the first petitioner C.Sundaram and A.Christuraj have gone on a vacation together.

10.The learned counsel appearing for the petitioners states that the photographs were shown to him just on the eve of this hearing and he is not able to confirm their veracity.

11.The learned counsel appearing for the defacto complainant strongly asserts that he is willing to stand by his allegation that A.Christuraj and S.Sundaram are close friends and that they have recently went on a holiday together. The defacto complainant has also filed a voluminous typed set of papers.

12.I note that the first petitioner had acted in concert with the other petitioners herein, so that, the defacto complainant can be the target of criminal prosecution all over the State of Tamil Nadu as well as Bengaluru. Serious allegations of forgery and impersonation have been made against the petitioners herein. I am of the view that their custodial interrogation is absolutely warranted. This is not a fit case for grant of anticipatory bail. The nature and gravity of the accusation made against the petitioners are rather serious. It has not been made with the object of injuring or humiliating the petitioners for having them arrested. The defacto complainant only wants to be spared the agony of having to attend criminal trials in as many as 9 cases spread throughout the State of Tamil Nadu and Bengaluru. This Court initially gave an option to the petitioners' counsel as to whether the matter could be resolved. But, the suggestion made by the Court was not agreeable to the petitioners. Even though I have made certain strong observations against the petitioners, I make it clear that they have been made only for the purpose of giving a disposal to this petition for anticipatory bail. They will not have any bearing on the investigation as such and they will not prejudice the defence of the petitioners in any manner.

13.With this clarification, the criminal original petition for anticipatory bail stands dismissed.

sd/-
16/12/2019

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE INSPECTOR OF POLICE,
   CITY CRIME BRANCH,
   TRICHY CITY, TRICHY.

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

+ 1 CC TO Mr.AN.RAMANATHAN, ADVOCATE IN SR No. 21942
+ 1 CC TO Mr.B.SARAVANAN, ADVOCATE IN SR No. 21999

ORDER
IN
CRL OP(MD) No.18024 of 2019
Date :16/12/2019

SKM
TE/PN/SAR-I : 09/01/2020 : 5P/5C