

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.09.2020

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THE HONOURABLE MR. JUSTICE **C.V.KARTHIKEYAN**

CrI.O.P.No.6054 of 2020

D.Hem Senthil Raj, M/33 years,
S/o.R.Devaraj
No.18/4, Chinnakuzhandai 2nd Street,
Next to R.K.Mahal,
Sembium, Perambur,
Chennai – 600 011.

.. Petitioner / Accused No.1

..Vs..

State rep. by
Inspector of Police
K1 Sembium Police Station,
Chennai.
(Crime No.501 of 2019)

..Respondent / Complainant

PRAYER : Criminal Original Petition filed under Section 438 Cr.P.C., to enlarge the petitioner on anticipatory bail in the event of his arrest in Crime No.501 of 2019 on the file of the respondent police.

For Petitioner

: Mr.T.Gnana Banu

For Intervenor

: Mr.V.T.Narendiran

For Respondent

: Mrs.V.Sharadhadevi,
Govt. Advocate.

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 294(A), 324 and 506(2) of I.P.C and under Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 in Crime No.501 of 2019 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner herein is alleged to have indulged in a quarrel, abused the de-facto complainant in a filthy language, attacked her and harassed her along with his parents for not begetting a child, resulting in registration of the case.

3.Heard the learned counsel for the petitioner, the learned counsel for the intervenor and the learned Government Advocate appearing for the respondent police.

4.This is the third anticipatory bail petition filed on behalf of the petitioner herein.

5.The first anticipatory bail petition was filed along by the present petitioner and by his father and mother, in which anticipatory bail was granted to the father and the mother who are the 2nd and 3rd accused, but was dismissed for the present petitioner herein. That order was passed on 16.10.2019. Even at that stage, this Court had considered the circumstances of the case and had also observed that retaliation on a wife and causing contusion injuries necessitating six days of hospitalization and which also allegedly led to mis-carriage cannot be accepted as a normal conduct of a husband.

6.Today, during the course of hearing, the learned counsel for the petitioner stated that the de-facto complainant had undergone abortion without the consent of the petitioner herein. That is a fact, which is not stated in the petition and it is highly reprehensible that such a fact is stated, since the doctor reports state that the de-facto complainant suffered a 'missed abortion' and did not undergo a consensual abortion.

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7.Be that as it may, a status report had been filed by the Inspector of Police, K1 Sembium Police Station, Chennai, wherein, it had been stated that the petitioner herein had left to United Arab Emirates in January 2020 itself.

This fact had not been stated by the Inspector of Police in his earlier report which had been filed on 28.01.2020. Order was passed dismissing the second anticipatory bail petition on 12.02.2020 and on that occasion also the police had also not disclosed that the petitioner had left to United Arab Emirates. Even in the present petition, the petitioner has not disclosed that he is in United Arab Emirates. This suppression of a material fact is to be condemned.

8. Along with the present petition, the petitioner also filed a copy of the petition in H.M.O.P.No.103 of 2020 filed under Section 9 of the Hindu Marriage Act, seeking restitution of conjugal rights. That petition had been filed in January – 2020. It defies all imagination as to how the petitioner has left to United Arab Emirates and then seeks restitution of conjugal rights. Therefore, deception is writ large on the petitioner's face.

9. Quite apart from these facts, the nature of injuries suffered also shows that the petitioner had inflicted injuries about which he should, as a husband, be ashamed of. If he has no remorse for the same, this Court cannot come to his rescue and justify his actions.

10.It is seen that the defacto complainant had suffered a contusion injury over the chest, swelling and contusion injury over the right arm, contusion injury over the parietal region and also a cortical break in the 9th rib.

11.There is no satisfactory explanation given by the Inspector of Police, as to why the petitioner had not been taken into the custody, even though the first anticipatory bail petition had been dismissed even as early as October 2019.

12.Mr.E.Jeganathan, Inspector of Police, K1 Sembium Police Station, Chennai, has failed to discharge his duty. A copy of this order shall be forwarded to the Commissioner of Police, Chennai City. In issues like this, there is a duty cast on the Investigation Officer to investigate in a proper manner.

13.One further aspect is that in the status report, the Investigation Officer had stated that he had examined and taken the statement of the de-facto complainant, which fact is vehemently denied by the learned counsel for the Intervenor / de-facto complainant.

14.I am not dwelling deeply into that issue, but that is an issue which requires further examination by the higher police officials.

15.Taking into consideration the conduct of the petitioner and also very unfortunately, the co-operation which he has received from the Investigation Officer, I hold that it is this Court alone which has to uphold the rights of the de-facto complainant. Accordingly, the petition is dismissed.

16.After the order was pronounced, the learned counsel for the petitioner intervened and stated that a false case has been registered against the petitioner and that the de-facto complainant had left the house at about 12.00 a.m in the night.

17.The conduct of a wife, leaving the house at 12.00 a.m in the night itself shows her desperation and also the extreme sadistic conduct of the petitioner herein in driving her to do so. For that reason also the petition is dismissed.

02.09.2020

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To

1.The Commissioner of Police,
Chennai City.

2. The Inspector of Police
K1 Sembium Police Station,
Chennai.

3. The Public Prosecutor,
High Court, Madras.

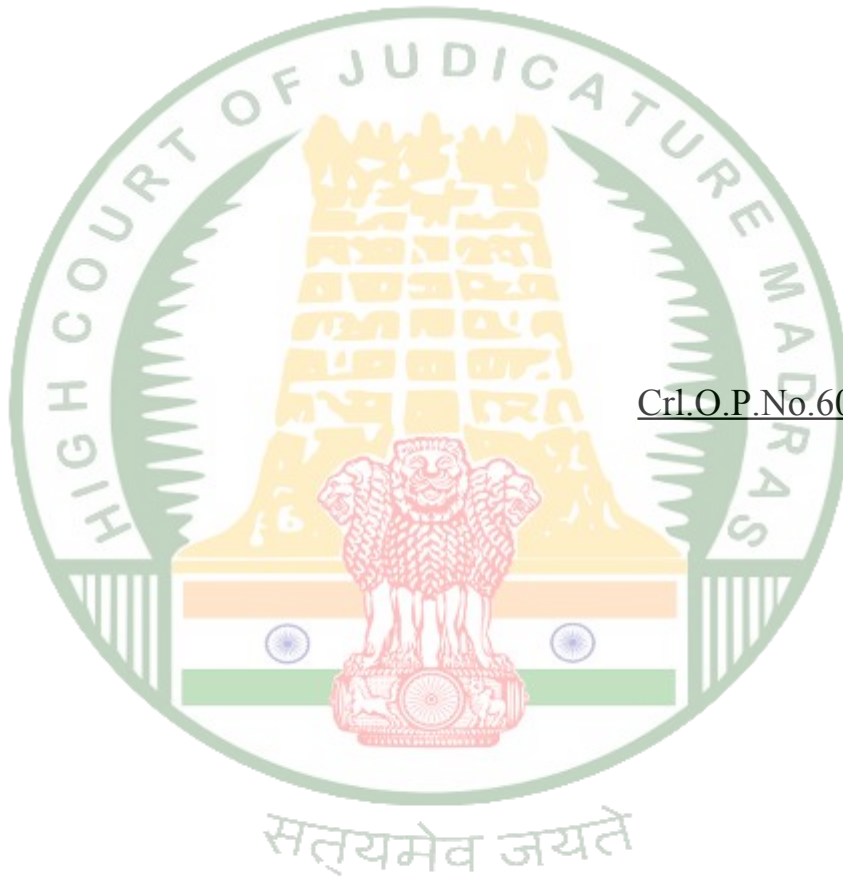


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C.V.KARTHIKEYAN, J.

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