

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twentieth day of March Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice T.RAJA

CRIMINAL ORIGINAL PETITION No.6666 of 2020

1 PRABHAKARAN
2 MANIBHARATH
3 D.VICHU

[PETITIONERS / ACCUSED]

Vs

STATE REP BY
THE INSPECTOR OF POLICE
K-2, AYANAVARAM POLICE STATION,
AYANAVARAM, CHENNAI-600 023.
CR.NO.169/2020.

[RESPONDENT]

For Petitioner : M/S. K.GOKULRAM Advocate

For Respondent : MR.S.KARTHIKEYAN, ADDITIONAL PUBLIC PROSECUTOR

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 the alleged offences punishable under Sections 294(b), 324, 506(2) IPC r/w. Section 4 of Women Harassment Act in Crime No.169 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that one Udayasankar had borrowed Rs.40 lakhs from the defacto complainant and later as he failed to repay the amount, on 11.3.2020, the defacto complainant along with her daughter Sujatha and her sister's daughter Revathy and their children went to Udayasankar's home for demanding money, where, as the said Udayasankar was not available, they were asked to wait for some time. When they waited in his home, some three unknown persons who arrived there, suddenly assaulted Sujatha and Revathy with iron pipe and also threatened them with dire consequences. Thus, the said Udayakumar, with an intention to cheat the defacto complainant, made them to wait in his house and assaulted them and also threatened them by engaging coolies. Hence the complaint.

3. According to the petitioners, one Udayakumar borrowed money from the defacto complainant, but he had repaid the same with interest. At the time of borrowal, they received blank pronotes from

Udayasankar, when he demanded for pronotes, they refused to give the same and further demanded more money. Therefore, the said Udayasankar lodged complaint in Ayanavaram Police Station. While so, on 11.3.2020, the abovesaid Krishnaveni along with Revathi and Sujatha, came to his house and in his absence, assaulted his father and also threatened him with dire consequences, that if he fails to give more money, they will finish off Udayasankar and his wife by engaging coolies.

4. Learned Senior counsel appearing for the petitioners submitted that the registration of the case against the petitioners is being a false one and the same cannot be proceeded with legally. The reason being that the petitioners have also given a complaint on 26.2.2020 alleging that there was money transaction between the petitioners and the defacto complainant and Udayasankar and the same was settled five years ago. Further, the said Udaya sankar used to take hand loan from the defacto complainant for his business purpose, while so, he approached the defacto complainant with a request to advance Rs.40 lakhs as hand loan. Since she was not having huge money, she arranged the same from some other persons and the said Udaya sankar undertook to repay the same in the month of January, but since he failed to repay the loan amount, the defacto complainant continuously approached the Udayasankar for the reason that there was failure to repay the loan amount to the said Udayasankar on 11.3.2020, at about 7.30 p.m., along with her daughter Sujatha and his sister's daughter Revathi. The further allegation put against the petitioners was that when the Sujatha and Revathi and Krishnaveni were waiting, some unknown persons came out of one of the rooms with iron rod and attacked them. The said allegation cannot be proved. The reason being that is that the previous money transaction was already over and only to extract more money from the petitioner, this allegation has been made out against the petitioners.

5. Arguing further, learned Senior counsel further submitted that admittedly there are cases and counter cases filed against each other. The claim made by the defacto complainant is liable to be brushed aside as it is not carrying any iota of proof.

6. Opposing the same, learned Addl. Public Prosecutor appearing for the respondent police submitted that there was an assault made against the Sujatha and her sister's daughter Revathi at about on 11.3.2020, which leads to registration of the case against the petitioners and the same cannot be found fault with, thus he prayed for dismissal of this petition.

7. This Court, taking note of the fact that both the defacto complainant and the petitioners have also given complaint on the same day on 11.3.2020 against each other and the same were also registered and the matter pertains to a money dispute, this Court is inclined to grant anticipatory bail to the petitioners. 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 on which the order copy made ready, before the learned V

Metropolitan Magistrate, Egmore, Chennai on condition that the petitioners 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[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 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 absconds, a fresh FIR can be registered under Section 229A IPC.

-sd/-

20/03/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE METROPOLITAN MAGISTRATE,
NO.V, EGMORE, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

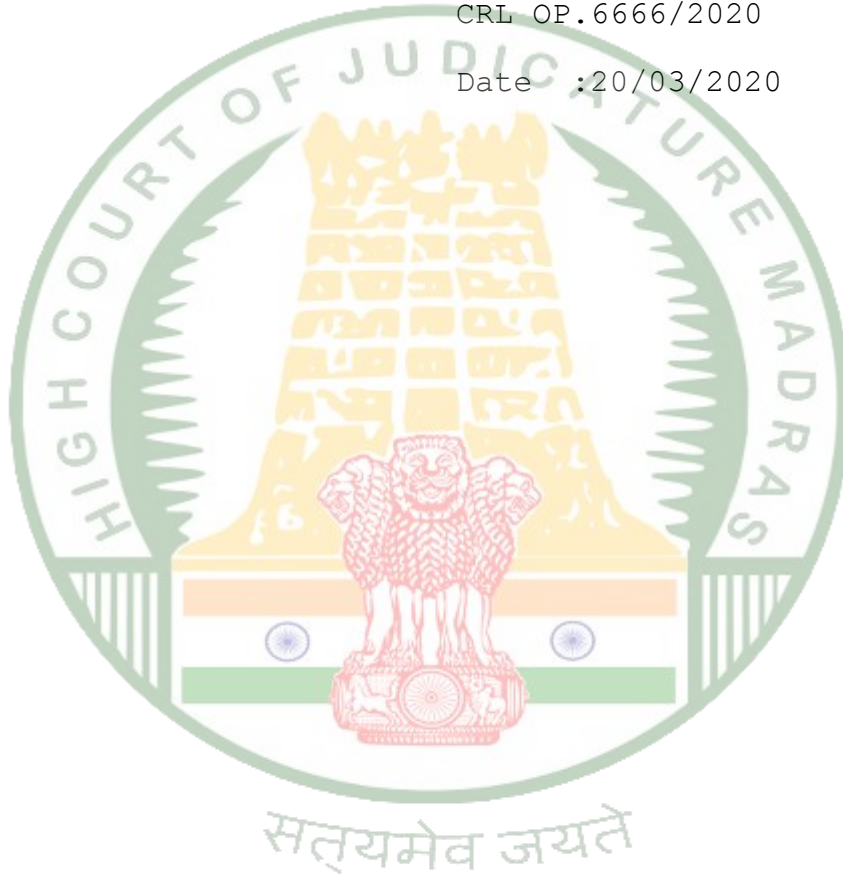
4 INSPECTOR OF POLICE
K-2, AYANAVARAM POLICE STATION,
AYANAVARAM,
CHENNAI-600 023.

+1 CC to M/S.K.GOKULRAM Advocate on payment of necessary
charges SR.NO.5506

CRL OP.6666/2020

Date :20/03/2020

TA-22/05/2020



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