

IN THE HIGH COURT OF JUDICATURE AT MADRAS

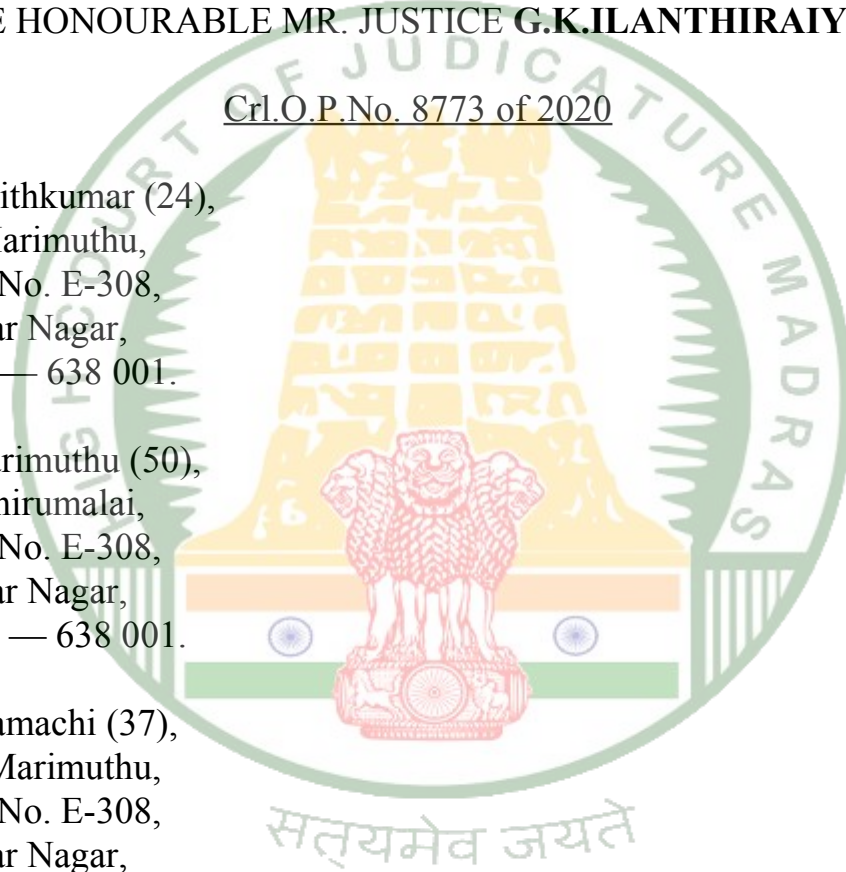
DATED :24.06.2020

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No. 8773 of 2020

1. M. Ajithkumar (24),
S/o Marimuthu,
Door No. E-308,
Periyar Nagar,
Erode — 638 001.
2. T. Marimuthu (50),
S/o Thirumalai,
Door No. E-308,
Periyar Nagar,
Erode — 638 001.
3. M. Kamachi (37),
W/o Marimuthu,
Door No. E-308,
Periyar Nagar,
Erode — 638 001.
4. P. Arukkani (55),
W/o Perumal,
Door No. E-308,
Periyar Nagar,
Erode — 638 001.



WEB COPY

5. S. Guanasekar (23),
S/o Sakthivel,
No. 173, Kuyavan Thittu,
Jeevanantham Road,
Erode.

... Petitioners

Vs.

State Rep. by
The Inspector of Police,
All Women Police Station,
Erode Erode District.
(Cr. No. 10 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C.,
praying to enlarge the petitioners on bail in the event of their arrest in
Crime No.10 of 2020 on the file of the respondent police.

For Petitioners : Mr.C.S.Saravanan

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

For Intervenor : Mr.Chinnaraj

ORDER

The petitioners who apprehend arrest at the hands of the
respondent police for the offences punishable under Sections 498(A),
354, 355, 506(i), 506(ii), 294(b) of IPC in Crime No.10 of 2020, seek
anticipatory bail.

2. The case of the prosecution is that the 1st Petitioner had love affair with the defacto complainant for the past 10 years and thereafter got married with the defacto complainant. During the initial stage of pregnancy of the defacto complainant the 1st petitioner kicked her in stomach and assaulted her, due to which she was aborted. Therefore, she was admitted in the hospital. Thereafter, there was an harassment by all the family members of the petitioner. Hence the complaint.

3. The learned counsel for the petitioners would submit that the 1st petitioner got married with the defacto complainant. Subsequently there was a misunderstanding between them and as such the 1st petitioner filed a divorce petition and it is pending as against the defacto complainant. As far as, the other petitioners 2 to 5 are family members and there is absolutely no allegation against these petitioners. In such circumstances, the Defacto Complainant has preferred a false complaint against the Petitioners. Therefore, he prays to grant anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor would submit that the 1st petitioner had love affair with the defacto complainant for the past 10 years and thereafter got married with the defacto complainant. The 1st petitioner assaulted her when she was at the initial stage of pregnancy and later got aborted. The 1st petitioner now abandoned her, due to which he filed a divorce petition and it is pending as against the defacto complainant. Hence he vehemently opposed to grant anticipatory bail to the petitioners.

5. The learned counsel for the Intervenor submitted that the petitioners assaulted the Defacto Complainant, who is the wife of the 1st petitioner herein by demanding dowry. Hence, he opposed for grant of anticipatory bail to the petitioners.

6. It is seen that the 1st petitioner is the husband of the defacto complainant and he got married the defacto complainant, due to their marriage she got pregnancy. At the initial stage of pregnancy the 1st petitioner assaulted her and got aborted. The petitioners 2 to 5 are family members they are nothing to do with the offence as alleged.

7. Considering the facts and circumstances, this Court is not inclined to grant anticipatory bail to the 1st petitioner. Accordingly, insofar as the 1st petitioner is concerned, the petition is dismissed. So far as the petitioners 2nd to 5th are concerned, this Court is inclined to grant anticipatory bail to them with certain conditions.

8. Accordingly, the petitioners 2 to 5 are directed to file a joint affidavit stating that the 1st petitioner and his family members will never involve any offence as against the defacto complainant in future, within a period of fifteen days from the date on which the order copy made ready, and on such filing of affidavit, the petitioners 2 to 5 are ordered to be released on bail in the event of arrest or on their appearance, before the learned Judicial Magistrate No.III, Erode, on condition that the petitioners 2 to 5 shall execute a separate 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 2 to 5 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 2 to 5 are directed to file a joint affidavit stating that the 1st petitioner and his family members will never involve any offence as against the defacto complainant in future, within a period of fifteen days from the date on which the order copy made ready before the Court below.

[c] the petitioners 2 and 5 shall report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter as and when required for interrogation and the petitioners 3 and 4 shall report before the respondent police as and when required for interrogation.

[d] the petitioners 2 to 5 shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioners 2 to 5 shall not abscond either during investigation or trial.

[f] 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 2 to 5 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]**.

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

24.06.2019

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
rri

To

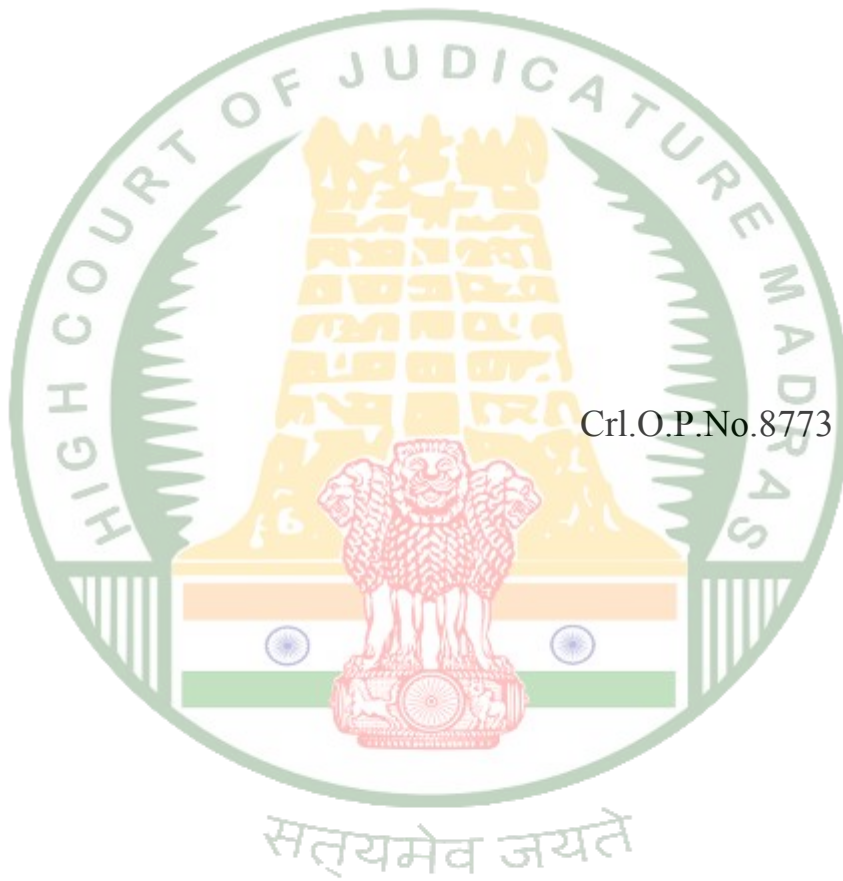
1. The Judicial Magistrate No.III,
Erode,

2. The Inspector of Police,
All Women Police Station,
Erode Erode District.
(Cr. No. 10 of 2020)

3. The Public Prosecutor,
Madras High Court,
Chennai.

G.K.ILANTHIRAIYAN, J

rri



Crl.O.P.No.8773 of 2020

WEB COPY 24.06.2020