



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

Date : 11/02/2020

PRESENT

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

CRL OP(MD). No.2113 of 2020

1. M.SUBBIAH
2. S.RAESWARAN
3. VIJAYA
4. JEYARAMAN

... PETITIONERS/ACCUSED NO.1 TO 4

VS

1.THE ASSISTANT COMMISSIONER OF POLICE,
ANNA NAGAR, MADURAI CITY.

2.THE INSPECTOR OF POLICE,
K.PUDUR POLICE STATION,
MADURAI CITY.
CRIME NO.119 OF 2020.

... RESPONDENTS/COMPLAINANTS

3.ARUMUGAM

... RESPONDENT/DEFACTO COMPLAINANT

For Petitioners : Mr.N.Dilipkumar, Advocate
for Mr.S.Ramesh, Advocate

For Respondent : Mr.A.Robinson,
Government Advocate (Crl.Side)

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

PRAYER :-

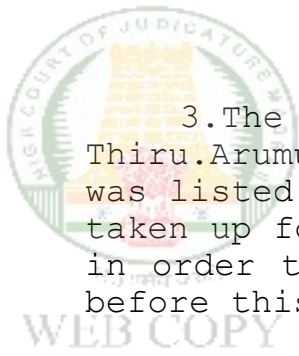
For Anticipatory Bail in Crime No.119 of 2020 on the file of
the Respondent Police.

ORDER : The Court made the following order :-

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

2. The petitioners apprehending arrest at the hands of the
respondent police 1 and 2 for the offences punishable under sections
147, 148, 294(b), 323, 427, 506(2) of I.P.C., and Section 3(2)(v) of
the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities)
Act, in Crime No.119 of 2020, have filed this petition seeking

<https://hccs.courts.myservices.in/cases/>



3.The defacto complainant is the third respondent Thiru.Arumugam. He belongs to scheduled caste community. The case was listed on 07.02.2020. It came again on 10.02.2020. It is being taken up for the third time today. The adjournment was necessitated in order to inform the third respondent about listing of this case before this Court.

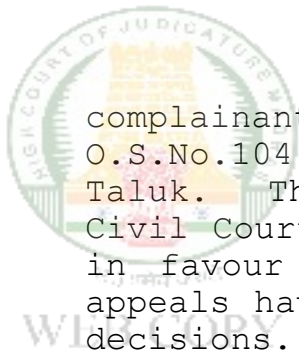
4.The learned Government Advocate (Crl.side) states that the third respondent is a retired village headman and that he has been informed about filing of the petition for anticipatory bail by the accused.

5.The case of the prosecution is that the petitioners herein armed with deadly weapon and accompanied by their henchmen and attacked the defacto complainant and his daughter Vijaya Lakshmi and also damaged the shed, in which, they were residing. The specific allegation of the defacto complainant is that the petitioners abused him by referring to his community.

6.Of-course, under Section 18(A) of the Scheduled Castes and Scheduled Tribes Act, 1989, there is a bar against invoking Section 438 of Cr.P.C. Admittedly, the case on hand is registered under Scheduled Castes and Scheduled Tribes Act.

7. But then, the learned counsel appearing for the petitioners submitted that even while upholding constitutional validity of Section 18(A) of the Scheduled Castes and Scheduled Tribes Act, 1989, the three Judges Bench of the Hon'ble Supreme Court in ***Writ Petition [C] No.1015 of 2018 (Prathvi Raj Chauhan Vs. Union of India)***, vide Judgment dated 10.02.2020, specifically held that if the complaint does not make out a prima facie case for applicability of the provisions of the Act of 1989, the bar created by Section 18 and 18A(i) shall not apply. The Hon'ble Supreme Court added that the Court can, in exceptional cases, exercise power under Section 482 of Cr.P.c., for quashing the cases to prevent misuse of provisions on settled parameters. It may be relevant to refer the earlier decision of this Court reported in ***2020 1 law weekly (Crl.) 112*** in this regard. This Court had held that if findings can be given that the complaint itself is false and not bonafide, then, invoking the power under Section 482 of Cr.P.C., anticipatory bail can be granted.

8.The learned counsel appearing for the petitioners submitted that the petitioners herein are admittedly the owners of the land in question. The defacto complainant, making a tenancy claim over the said land, moved the authorities under the record of Tenancy Act (Tahsildar Madurai East) for entering his name in the register. He filed a petition in the year 2017. The same suffered dismissal on 08.01.2019. It is stated that an appeal has been filed challenging the decision of the Tahsildar Madurai East. The defacto



complainant has also filed civil suit seeking injunction in O.S.No.104 of 2015 on the file of the District Munsif Court, Madurai Taluk. The said suit suffered a dismissal on 25.04.2019 and the Civil Court has given a finding against the defacto complainant and in favour of the petitioners 1 and 2 herein. It is true that appeals have been filed by the defacto complainant against both the decisions. Thus, the parties are locked in a bitter civil litigation and the first round proceedings have ended in favour of the petitioners herein. Therefore, the impugned complaint will have to be viewed in this background.

9.I am satisfied that the defacto complainant has given this complaint in order to gain leverage. It appears to be malafide on the face of it. Of-course, this finding is given only for the purpose of granting relief in this petition. It will not have any bearing on the investigation as such. I, therefore, grant anticipatory bail to the petitioners.

10.The petitioner's counsel would draw my attention to the proceedings dated 08.01.2019 issued by the Tahsildar Madurai East. It is seen there from that the defacto complainant herein had filed a complaint against the Tahsildar Madurai East alleging that the petitioners abused the defacto complainant by referring to his community. It appears that the defacto complainant wants to hide behind his communal identity for the purpose of gaining leverage in his civil proceedings.

11. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned Judicial Magistrate No.6, Madurai, and on their executing a bond for a sum of Rs.10,000/- (Rupees Ten thousand only)each with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further condition that the petitioners shall appear before the respondent police as and when required for interrogation. The petitioners shall comply with the conditions stipulated under Section 438 Cr.P.C scrupulously.

12. The petitioners shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail shall stand dismissed.

sd/-
11/02/2020

/ TRUE COPY /

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



TO

1 THE JUDICIAL MAGISTRATE NO.6,
MADURAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.

3 THE ASSISTANT COMMISSIONER OF POLICE,
ANNA NAGAR, MADURAI CITY.

4 THE INSPECTOR OF POLICE
K.PUDUR POLICE STATION, MADURAI CITY.

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

+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-2825[I] dated 11/02/2020)

ORDER

IN

CRL OP(MD) No.2113 of 2020

Date :11/02/2020

RMI

JM/VR/SAR 3/14.02.2020/4P/7C