



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2020

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.4024 of 2020

and

Crl.M.P. (MD)No.2136 of 2020

in

Crl.O.P. (MD)No.117 of 2020

Crl.O.P(MD)No.4024 of 2020:-

Bharathidasan

... Petitioner

Vs.

1.The Superintendent of Police,
Tiruchirappalli District,
Tiruchirappalli.

2.The Inspector of Police,
All Women Police Station,
Musiri,
Tiruchirappalli District.

... Respondents

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to direct the respondents herein to withdraw the lookout circular issued against him pertaining to the case registered in Crime No.13 of 2019 dated 20.10.2019 on the file of the Inspector of Police, All Women Police Station, Musiri, Tiruchirappalli District.

For Petitioner : Mr.A.Thiruvadi Kumar
For Respondents : Mr.A.Robinson
Govt. Advocate (Crl. Side)

Crl.M.P. (MD)No.2136 of 2020 :-

K.Gayathri

... Petitioner

Vs.



1.R.Bharathidasan

2.The Inspector of Police,
All Women Police Station,
Musiri,
Tiruchirappalli District.

... Respondents

Prayer: This Criminal Miscellaneous Petition is filed under Section 438(2) r/w. 482 of Cr.P.C., to cancel the order of anticipatory bail in favour of 1st respondent/Accused No.1 in the event of arrest in Crime No.13 of 2019 on the file of the 2nd respondent granted by this Court dated 07.01.2020 in Crl.O.P.(MD) No.117 of 2020 on the file of this Court.

PRAYER IN CRL OP(MD).117 OF 2020:-

Criminal Original Petition is filed under Section 438 of Cr.P.C. praying that this Hon'ble Court may be pleased to enlarge the petitioner on bail in the event of his arrest in connection with Crime No.13/2019 on the file of the Respondent Police.

For Petitioner : Mr.R.T.Arivukumar
For Respondents : Mr.A.Robinson
Govt. Advocate (Crl. Side) for R2
Mr.A.Thiruvadi Kumar for R1

COMMON ORDER

The defacto complainant in Crime No.13 of 2019 registered on the file of All Women Police Station, Musiri is the petitioner in Crl.M.P.(MD)No.2136 of 2020. She wants this Court to cancel the anticipatory bail granted to A1/Bharathidasan vide order dated 07.01.2020 in Crl.O.P.(MD)No.117 of 2020. The said Bharathidasan/A1 in Crime No.13 of 2020 has filed Crl.O.P.(MD) No.4024 of 2020 for directing the police to withdraw the lookout circular issued against him. Since both these cases are interlinked, I had them together.

2.The marriage between them had taken place on 05.02.2016. The relationship between the parties had come under considerable strain. The defacto complainant/Gayathri had filed D.V.C.No.3 of 2019 before the learned Judicial Magistrate, Musiri. She had also filed H.M.O.P.No.113 of 2019 before the learned Principal Sub Court, Tiruchirappalli seeking the relief of restitution of conjugal rights. Bharathidasan had filed H.M.O.P.NO.142 of 2019 seeking dissolution of his marriage.



3.In the meanwhile, the FIR in question came to be registered on 20.10.2019. I had granted anticipatory bail by recording the undertaking of Bharathidasan that he would pay a sum of Rs.5,000/- per month as maintenance.

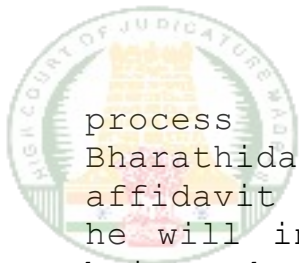
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4.The said anticipatory bail order is sought to be cancelled at the instance of the defacto complainant. The defacto complainant would point that the learned Judicial Magistrate, Musiri in D.V.C.No.3 of 2019 had already passed an order directing him to hand over her original certificates. Without complying with the said direction, the said accused had obtained an order of anticipatory bail before this Court. She also would point out that Bharathidasan is in well paying job in Singapore and he is said to be earning a sum of Rs.3,00,000/-.

5.I must express my surprise that when the husband is earning a sum of Rs.3,00,000/-, he came forward to pay a sum of Rs.5,000/- as maintenance. The accused ought to have been fair to the Court. He ought to have disclosed the nature of his employment and his salary package so as to enable this Court to quantify the approximate maintenance amount that can be directed to be paid. He has not been fair to the Court. However, today Mr.A.Thiruvadi Kumar, learned counsel appearing for Bharathidasan in the other criminal original petition submitted that Bharathidasan would pay a sum of Rs.25,000/- per month as maintenance. I make it clear that this is only an interim and adhoc arrangement. This will not prevent or bar Gayathiri from asking for higher amount as maintenance before the Jurisdictional Court. What is undertaken to be paid by Bharathidasan is only the minimum maintenance amount.

6.The learned Judicial Magistrate, Musiri is requested to take up the enquiry in D.V.C.No.3 of 2019 on a day today basis and conclude the same on merits and in accordance with law within a period of two weeks from the date of receipt of a copy of this order. I am making this request to the learned Magistrate because I am not in a position to find out if the accused are in possession in jewels and the original certificates of the defacto complainant or not. In the very nature of things, it would require an enquiry. That is why this issue is relegated to the file of the learned Judicial Magistrate, Musiri.

7.Bharathidasan is presently employed in Singapore. Merely because he is entangled in a matrimonial litigation in India, that is not a ground for detaining him here. If the accused is detained indefinitely, he is sure to lose his job. This is not going to serve anybody's purpose. At the same time, his being away from India should not contribute to any delay in the legal



process initiated by the defacto complainant Gayathiri. Bharathidasan therefore undertakes to file an appropriate affidavit before the learned Judicial Magistrate, Musiri in which he will indicate the arrangement to be made by him so that his being aboard will not in any way stall the progress of the proceedings. For instance for representing him in the criminal prosecution, he can give a special vakalat to a counsel. If the father of Bharathidasan is having any passport, the same shall be surrendered. It is also open to the learned Judicial Magistrate, Musiri to impose appropriate conditions to ensure that the proceedings concerning him are not in any way affected. I make it clear that the conditions will not be in such a way as to frustrate the right of Bharathidasan to travel abroad. Bharathidasan in order to protect his right to go abroad for the purpose of his employment should be willing to submit himself all other terms and conditions.

8.Recording undertaking of Bharathidasan, I am of the view that there is no purpose in maintaining the lookout circular issued against him. Therefore, the respondents in Crl.O.P.(MD) No.4024 of 2020 are directed to withdraw the same and also intimate the immigration authority about the same.

9.The learned counsel appearing for the defacto complainant states that due to inadvertence, he had sought only a sum of Rs.10,000/- as monthly maintenance. The defacto complainant is permitted to amend the same to a higher figure.

10.In view of the above, Crl.O.P.(MD)No.4024 of 2020 is allowed and Crl.M.P.(MD)No.2136 of 2020 in Crl.O.P.(MD)No.117 of 2020 is disposed of.

Sd/-

Assistant Registrar(AE)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To:

1.The Superintendent of Police,
Tiruchirappalli District,
Tiruchirappalli.



2.The Inspector of Police,
All Women Police Station,
Musiri,
Tiruchirappalli District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.A.THIRUVADIKUMAR, Advocate (SR-10057[F] dated
04/03/2020)

+1CC TO MR.R.T.ARIVU KUMAR, Advocate Sr. No. 9961

Cr1.O.P(MD)No.4024 of 2020
04.03.2020

AL(CO)
TR(05.03.2020) 5P 6C