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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 16/12/2020

PRESENT

The Hon'ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD). No.14916 of 2020

1. Nirmalraj
2. Duraippandi
3. Dhayalan
4. Vanaja
5. Nishanthi Devi
6. Suganya Harshini

... Petitioners/Accused No.1 to 5

Vs

The State Rep. by
The Inspector of Police,
All Women Police Station,
Vadamadurai,
Dindigul District.
Crime No.15 of 2020.

... Respondent/Complainant

For Petitioners: Mr.S.Sarvagan Prabhu,
Advocate.

For Respondent : Mr.K. Suyambulinga Bharathi,
Government Advocate (Crl.Side)

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

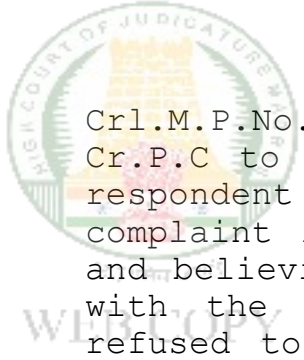
PRAYER :-

For Anticipatory Bail in Crime No.15 of 2020 on the file of the Respondent Police

ORDER : The Court made the following order :-

The petitioners, who are arrayed as A1 to A6, apprehending arrest at the hands of the respondent police for the offences punishable under sections 107, 147, 148, 294(b), 323, 352, 494 and 498(A) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, in Crime No.15 of 2020 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant is the wife of the first petitioner/A1 and she has filed a petitioner before the Additional Mahila Court, Dindigul in

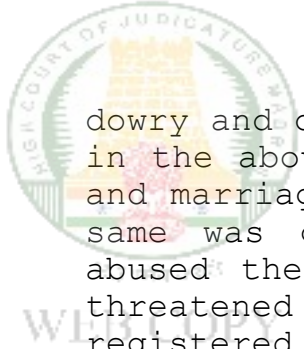


Crl.M.P.No.6672 of 2020, dated 09.11.2020 under Section 156(3) Cr.P.C to register the case and the Court below has directed the respondent Police registered a case. The averments in the said complaint is that the defacto complainant and A1 loved each other and believing the false promise of A1, A1 had physical intercourse with the defacto complainant with her consent. Later, when A1 refused to marry the defacto complainant, the defacto complainant has preferred a complaint before the AWPS, Dindigul on 17.11.2015 and case in crime No.38 of 2015 under Section 376 and 417 of IPC was registered against A1 and he was arrested. Based on the undertaking given by A1 to marry the defacto complainant, A1 was released on bail. After the release of A1, he has married the defacto complainant on 07.12.2015. But, failed to continue the matrimonial life. Subsequently, there was a demand of dowry from the defacto complainant, A1 has filed a petition for divorce before the Family Court in H.M.O.P.No.194 of 2017 and the defacto complainant filed a petition for restitution of conjugal rights in H.M.O.P.No.194 of 2017 before the Family Court, Dindigul. Further more, the petition filed by A1, was dismissed and the defacto complainant's petition was allowed. In such circumstances, the defacto complainant was informed that A6 in the above crime number was kidnapped by the petitioners 1 to 5 and marriage was performed with A1 and living at Madurai. When the same was questioned by the defacto complainant, the petitioners abused the defacto complainant by using filthy language and also threatened her with dire consequences. Based on the complaint given by the defacto complainant, the crime has been registered against the petitioners.

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

4.The learned counsel appearing for the petitioners submitted that totally there are six accused in this case, in which, the petitioners have been arrayed as A1 to A5. He further submitted that the case against the first petitioner/A1 in Crime No.38 of 2015 under Sections 376 and 417 ended in acquittal in S.C.No.73 of 2017, dated 22.04.2019 before the Mahila Court, Dindigul. Thereafter, the first petitioner got married the defacto complainant. In fact, the defacto complainant has filed a petition for restitution of conjugal rights and the same was allowed. Even then, the defacto complainant failed to come to the matrimonial home and live with the first petitioner. While being so, the present false complaint has been foisted as against the petitioners. He further submitted that the entire allegations are false. Hence, he prayed for grant of anticipatory bail to the petitioners.

5.The learned Government Advocate (Crl. Side) appearing for the respondent Police submitted that totally there are six accused in this case, in which, the petitioners have been arrayed as A1 to A6. he further submitted that the first petitioner got married the defacto complainant. Thereafter, the petitioners demanded more



dowry and driven her out from the matrimonial home. Thereafter, A6 in the above crime number was kidnapped by the petitioners 1 to 5 and marriage was performed with A1 and living at Madurai. When the same was questioned by the defacto complainant, the petitioners abused the defacto complainant by using filthy language and also threatened her with dire consequences. Hence, the crime has been registered.

6.Considering the facts circumstances and also considering the fact there is a matrimonial dispute between the first petitioner and the defacto complainant and there is serious allegation against the first petitioner, this Court is not inclined to grant anticipatory bail to the first petitioner.

7.Hence, this criminal original petition is dismissed in respect of the first petitioner.

8.Considering the facts circumstances and also considering the fact there is a matrimonial dispute between the first petitioner and the defacto complainant and there is no serious allegation against the petitioners 2 to 6, this Court is inclined to grant anticipatory bail to the petitioners 2 to 6 with certain conditions.

9.Accordingly, the petitioners 2 to 6 are ordered to be released on bail in the event of arrest or their appearance, within a period of two weeks from the date of receipt of a copy of this order, before the Additional Mahila Court, Dindigul, Dindigul District, on condition that the petitioners 2 to 6 shall execute 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 respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a)the petitioners 2 to 6 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 6 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.

(c)the petitioners 2 to 6 shall not tamper with evidence or witness either during investigation or trial;

(d)the petitioners 2 to 6 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 petitioners 2 to 6 in accordance with law as if the conditions have been imposed and the petitioners 2 to 6 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]; and;



(f) if the accused/petitioners 2 to 6 thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

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16/12/2020

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

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE JUDGE,
ADDITIONAL MAHILA COURT,
DINDIGUL, DINDIGUL DISTRICT.
2. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
VADAMADURAI,
DINDIGUL DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+ 1 CC TO Mr.SARVAGAN PRABHU, ADVOCATE IN SR No. 8289

ORDER
IN
CRL OP(MD) No.14916 of 2020
Date :16/12/2020

VSG
TE/KV/SAR-I : 06/01/2021 : 4P/5C