

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Cr1.O.P.No.4876 of 2021

1. K.Seetha
2. Sivagami

... Petitioners

Vs.

The State Rep. by
The Inspector of Police,
W-32, All Women Police Station,
Madipakkam, Chennai-91.
(Crime No.1 of 2021)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on bail in the event of their arrest in Crime No. 1 of 2021 pending investigation on the file of the Respondent.

For Petitioners : Mr.B.Vijay

For Respondent : Mr.S.Karthikeyan
Addl. Public Prosecutor

For Intervenor : Mr.H.Manivannan

O R D E R

(The case has been heard through video conference)

Totally, there are three accused and the petitioners are arrayed as A2 and A3. The petitioners apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 498(A) and 420 of I.P.C., in Crime No. 1 of 2021, on the file of the respondent police, and now, they have filed this petition seeking to grant anticipatory bail.

2. The 1st petitioner is A2, who is mother of A1 and 2nd petitioner is a cousin sister of A1. The case of the prosecution is that, the marriage between the defacto complainant and A1 was taken place in the year 2019. According to the defacto complainant, A1 in this case is an impotent, suppressing the said fact, he has got married. Thereafter, the marriage was not consummated. Hence, the petitioner has filed a petition under Sec.12 of Hindu Marriage Act to declare the marriage as null and void on the ground that A1 was impotent and the marriage was not consummated. In H.M.O.P.No.2315 of 2020 on the file of Family

Court, Chennai. A1 knowingly well that he is impotent and suppressing the fact, he has got married to the defacto complainant, thereby he has cheated her. Hence, the present complaint has been filed for the above said offence. So far as these petitioners are concerned, they are mother and relative of A1 and they have given a false promise to the defacto complainant, thereby the marriage was taken place and they have harassed the defacto complainant.

3. The learned counsel appearing for petitioners would submit that, the defacto complainant earlier given a similar complaint against the main accused A1, which was enquired into by the police and the same was closed as mistake of fact. Thereafter, she has filed a petition under Sec.12 of Hindu Marriage Act making the very same allegations and the matter is pending and he is also contesting it. Thereafter, the present complaint has been filed as if the petitioners cheated the defacto complainant. The allegation is only against A1. The petitioners are relative of A1 and they are nothing to do with this crime. He would submit that they have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case and hence, he prays to grant anticipatory bail to the petitioners.

4. The learned counsel appearing for defacto complainant/intervenor would submit that all the petitioners have suppressed the fact that A1 is an impotent and they have conducted the marriage. Hence, the complaint has been given. Earlier, the complaint filed by the petitioners are closed based on a consent the letter said to have given by the defacto complainant and she has never given any such letter agreeing for compromise, and also submitted that a petition in H.M.O.P.No.2315 of 2020 is pending before the Family Court, Chennai.

5. The learned Additional Public Prosecutor appearing for the respondent would submit that now the investigation is still pending and A1, who is in abroad is still absconding. However, he opposed to grant anticipatory bail to the petitioners.

6. Taking into consideration of the fact that the marriage took place in the year 2019, now the allegation is that A1 in this case, husband of defacto complainant, who is said to be a impotent person, suppressing the fact, conducted the marriage, in which, these petitioners also said to have involved and cheated the defacto complainant and subsequently they have harassed her. On perusal of records, it could be seen that already similar complaint has been given by the defacto complainant and after enquiry, it was closed. Thereafter, a petition in H.M.O.P.No.2315 of 2020 under Section 12 of Hindu Marriage Act has been filed making the very same allegations. Even assuming that a false promise has been given, it is only A1, who is said to be impotent has cheated the defacto complainant, these petitioners are mother and relative of A1, who are senior citizens. In the said circumstances, this Court is inclined to grant bail to the petitioners in subject to the following conditions:

a) 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 of receipt of a copy of this order, before the learned Additional Mahila Court, Alandur on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, 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, and on further condition that:

[b] 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;

[c] the petitioners shall appear before the respondent police as and when required for interrogation ;

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial;

[e] the petitioners 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 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 absconds, a fresh FIR can be registered under Section 229A IPC.

7. With the above directions, this Criminal Original Petition is ordered.

-sd/-
18/03/2021

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 ADDITIONAL MAHILA COURT,
ALANDUR.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
W-32 ALL WOMEN POLICE STATION,
MADIPAKKAM, CHENNAI.

+2CC to M/S.B.VIJAY Advocate on payment of necessary charges
SR NO.3645

+1CC to MR.H.MANIVANNAN Advocate on payment of necessary
charges SR NO.3662

CRL OP.4876/2021

Date :18/03/2021

MK:24/03/2021



WEB COPY