

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Monday, the Twenty Second day of March Two Thousand Twenty One
PRESENT

The Hon`ble Mr Justice V. BHARATHIDASAN
CRIMINAL ORIGINAL PETITION No.5087 of 2021

1 ESWARAN
2 RADHAMANI

[PETITIONERS / ACCUSED]

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
POLLACHI, COIMBATORE DISTRICT.
CR.NO.02 OF 2021.

[RESPONDENT]

For Petitioner : M/S. V.R.APPASWAMEE Advocate

For Respondent : M/S.S.KARTHIKEYAN, Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

(The case has been heard through video conference)

The petitioners, who apprehend arrest in connection with the case in Crime No.2 of 2021 on the file of the respondent police for the alleged offence u/s 406, 420 and 498-A of IPC, seek anticipatory bail.

2. The petitioners are parents of A1 - Dr.Vijayakumar. The petitioners are said to arrayed as A2 and A3 respectively. The marriage of A1 with the de facto complainant took place on 11.12.2005. There are totally three accused in this case. According to the de facto complainant, at the time of marriage sufficient dowry was given. A1 was living in United Kingdom due to his job. The allegation is that after the marriage, the petitioners and his son (A1) had started harassing the de facto complainant demanding dowry and driven her out of the matrimonial home and A1 had initiated a divorce proceedings and got divorce. Thereafter, A2 and A3 were taking steps to arrange for second marriage for A1 with another lady. Hence, the complaint.

3. The learned counsel for the petitioner submitted that the marriage between A1 and the de facto complainant took place in the year 2005. Immediately after the marriage, dispute arose between the couple and A1 filed a petition for divorce in H.M.O.P.NO.227 of 2013 on the file of Subordinate Court, Pollachi. Though the trial court, by order dated 31.08.2017, dismissed the petition, on appeal, in C.M.A.NO.35 of 201 on the file of the learned IV Additional District Judge, Coimbatore, by judgement dated 06.08.2018 allowed the appeal and set aside the order of the trial court and thereby granted a decree of divorce in favour of A1. Aggrieved by the same, the de facto complainant filed a second appeal in CMSA SR No.9655 of 2020 with delay of 418 days along with application in C.M.P.No.1799 of 2020 which was dismissed by this court on merit by order dated 18.09.2020 and therefore, the decree passed by the learned IV Additional District Judge, Coimbatore, granting divorce has become final. Thereafter, the present complaint has been given making all sort of false allegations.

4. The learned counsel for the petitioners further submitted that earlier the de facto complainant had given a similar complaint before the very same police which was closed after a thorough enquiry. The present one is second complaint on the very same allegations. The petitioners are age old parents of A1 and they have been falsely implicated in the case.

5. The learned Additional Public Prosecutor submitted that the petitioners are parents of A1 and there were matrimonial dispute between A1 and the de facto complainant and A1 had obtained a decree of divorce. The allegation is that the petitioners had refused to return the jewels which were presented to the de facto complainant by her parents at the time of marriage and they were taking steps to solemnize second marriage to A1. He further submitted that investigation is pending.

6. I have considered the rival submissions carefully.

7. The marriage between A1 and the de facto complainant was taken place in 2005 and there were misunderstandings between the couple and A1 had filed a petition in the year 2017 seeking divorce on the ground of cruelty which was though dismissed by the trial court, on appeal, the appellate court reversed the decree of the trial court, which was affirmed by this court on a further appeal preferred by the de facto complainant. Considering the old age of the petitioners and relationship between the parties and there were long pending matrimonial dispute between A1 and the de facto complainant and also the fact that there is no serious allegation made against the petitioners, this court is inclined to grant anticipatory bail to the petitioner 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 Judicial Magistrate-I, Pollachi, Coimbatore District, on each of them executing a 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:

[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 report before the respondent police as and when required by the police 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 petitioner in accordance with law as if the conditions have been imposed and the petitioners have been released on bail by the learned Magistrate himself /Trial Court 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.

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

-sd/-

22/03/2021

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 JUDICIAL MAGISTRATE,
NO.I, POLLACHI, COIMBATORE

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE (FOR INFORMATION)

3 IV ADDITIONAL DISTRICT JUDGE,
COIMBATORE

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

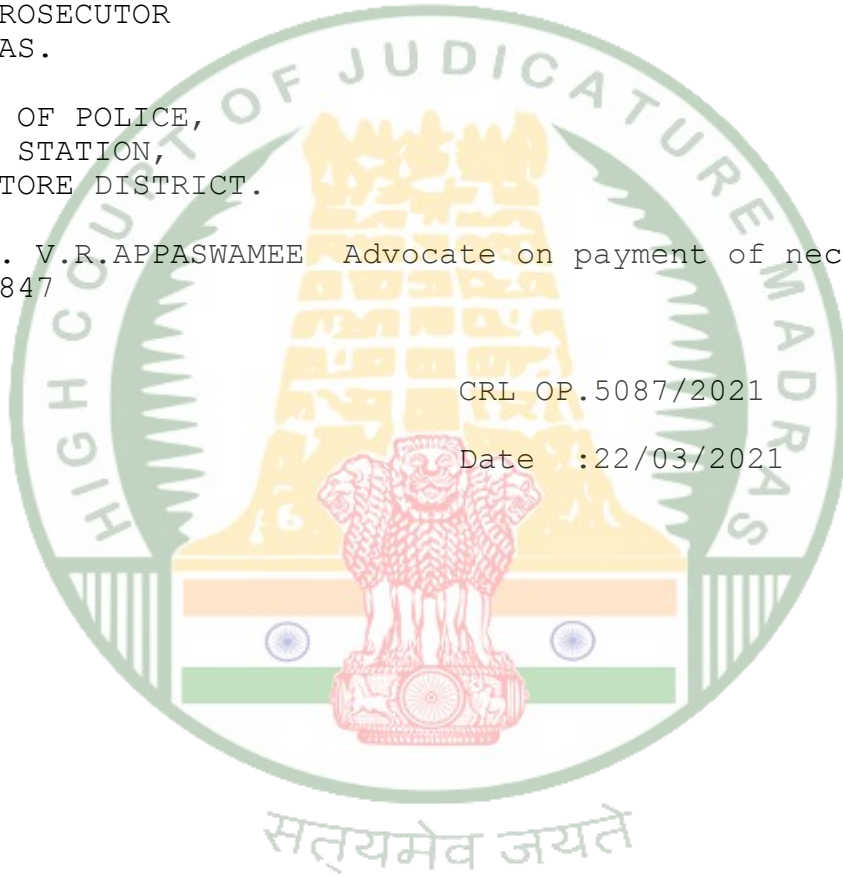
5 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
POLLACHI, COIMBATORE DISTRICT.

+2 CC to M/S. V.R.APPASWAMEE Advocate on payment of necessary
charges SR.NO. 3847

CRL OP.5087/2021

Date :22/03/2021

rvr 01/04/2021



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