

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.06.2021

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.Nos.8472, 8473 and 8474 of 2021

Joseph Colman .. Petitioner in Crl.OP.No.8472 of 2021
S.V.Sasikala ... Petitioner in Crl.OP.No.8473 of 2021
J.Monica Joseline .. Petitioner in Crl.OP.No.8474 of 2021

-Vs-

The State Rep. by
The Inspector of Police,
V7, Nolambur Police Station,
Nolambur, Chennai-5.

...Respondent in all the petitions

Common Prayer: Criminal Original petitions filed under Section 438 of Cr.PC to enlarge the petitioners on bail in the event of their arrest in crime no.not known of 2021 on the file of the respondent police.

For Petitioners : M/s.Swaraj Associates

For Respondent : Mr.A.Gopinath, GA (Crl. Side)

COMMON ORDER

The petitioners who apprehend arrest at the hands of respondent police for an offence under Section 406 IPC in Crime No.not known of 2021 on the file of the respondent police, seek anticipatory bail.

2. It is the case of the prosecution that the petitioner in Crl. O.P. No.8474/21 is running a super market under the name and style of M/s 'CK Super Store'. For the purpose of opening of the said supermarket, the petitioner in Crl. O.P. No.8474/21, who is the daughter of the petitioners in Crl. O.P. Nos. 8472 & 8473/21, created bogus lease agreement as if it was entered into with the defacto

complainant for leasing out the premises on a monthly rent of Rs.80,000/- and a lease advance of Rs.20,00,000/-. Without paying any money to the defacto complainant towards advance, the petitioners occupied the premises and, thereafter, threatened the defacto complainant by employing security guards and asked the defacto complainant to return the cheques, which were alleged to have been given by the petitioners towards the lease amount. The petitioners started harassing the defacto complainant, which prompted the defacto complainant to lodge the present complaint.

3. It is the submission of the learned counsel appearing for the petitioners that the petitioners have paid the advance towards the lease amount, amounting to Rs.20,00,000/- to the defacto complainant, which is evident from the lease agreement. However, after receiving the amount, in the form of cash, the defacto complainant had not returned the cheques, which were given towards the lease advance. It is the further submission of the learned counsel for the petitioners that enraged by the above request of the petitioners, the defacto complainant employed persons and threatened the petitioners to vacate the premises, which prompted the petitioners to employ security guards. In the above circumstances only, the defacto complainant, with a view to wreck vengeance against the petitioners, had lodged the present complaint. It is submitted that the petitioners are innocent persons, who have parted with the money and are facing the criminal prosecution and, therefore, the present petition has been filed for the relief supra.

4. Learned Government Advocate (Crl. Side) appearing for the respondent submits that investigation has been taken up by the respondent to find out the truth in the matter and further submitted that though the lease agreement is alleged to have been entered between the petitioners and the defacto complainant, however, no other material evidencing the payment has been submitted by the petitioners. The petitioners being influential persons, granting the relief sought for would scuttle the investigation and, therefore, he opposes grant of anticipatory bail.

5. This Court paid its anxious consideration to the submissions advanced by the learned counsel on either side and perused the materials available on record.

6. It is evident from the record, as also the submission of the learned counsel for the petitioners that lease agreement has been entered into between the petitioners. In that case, this Court is at a loss to understand as to how in the matter of lease, the concept of rent comes into play. If it is a lease agreement, then there would be no component of rent, but the lease agreement speaks about payment of monthly rent at Rs.80,000/-.

7. Be that as it may. It is the case of the petitioners that the lease amount of Rs.20,00,000/- was paid by way of cash on three different dates, viz., Rs.5,00,000/- on 07.11.20; Rs.5,00,000/- on 18.11.20 and Rs.10,00,000/- on 01.01.2021. Only in lieu of the cash paid, it is the case of the petitioners that they have sought return of the cheques, which is said to have been given by the petitioners to the defacto complainant. However, it is to be pointed out that the lease agreement is silent about the cheques said to have been issued by the petitioners to the defacto complainant, which is sought to be returned back to the petitioners. Further, it is to be pointed out that had the petitioners paid the amount of Rs.20,00,000/- by way of cash, as averred by them, then the proper course open to the petitioners is to submit proof with regard to the said payment, in the form of withdrawal of the said amount from bank, etc. However, no such proof has been placed by them before the respondent to prove their case. The petitioner has also not come forward to place any worthwhile material to show that the said payments were made in the form of cash to the defacto complainant. Though the complaints made by the petitioners to the various authorities and also the legal notice issued to the defacto complainant form part of the typed set of documents, yet there is no material evidencing payment made to the defacto complainant nor any material to infer that such amounts were drawn by the petitioners on the dates on which alleged payment is said to have been made so as to conclude that the averments in the lease agreement are true and that the defacto complainant has received the said amount. In the absence of any material to show that the amount has been paid by the petitioners to the defacto complainant, it is the duty of the respondent police to investigate the matter. The present attempt on the part of the petitioners in seeking anticipatory bail is only for extraneous reasons, which this Court cannot accede and appreciate and, for the reasons aforesaid, this petition is devoid of merits and is liable to be dismissed rejecting the plea for anticipatory bail.

8. For the reasons aforesaid, the prayer for anticipatory bail, as made by the petitioners cannot be granted and, accordingly, these petitions are dismissed.

-sd/-

14/06/2021

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 INSPECTOR OF POLICE,
V7,NOLAMBUR POLICE STATION,
NOLAMBUR, CHENNAI - 600 095.

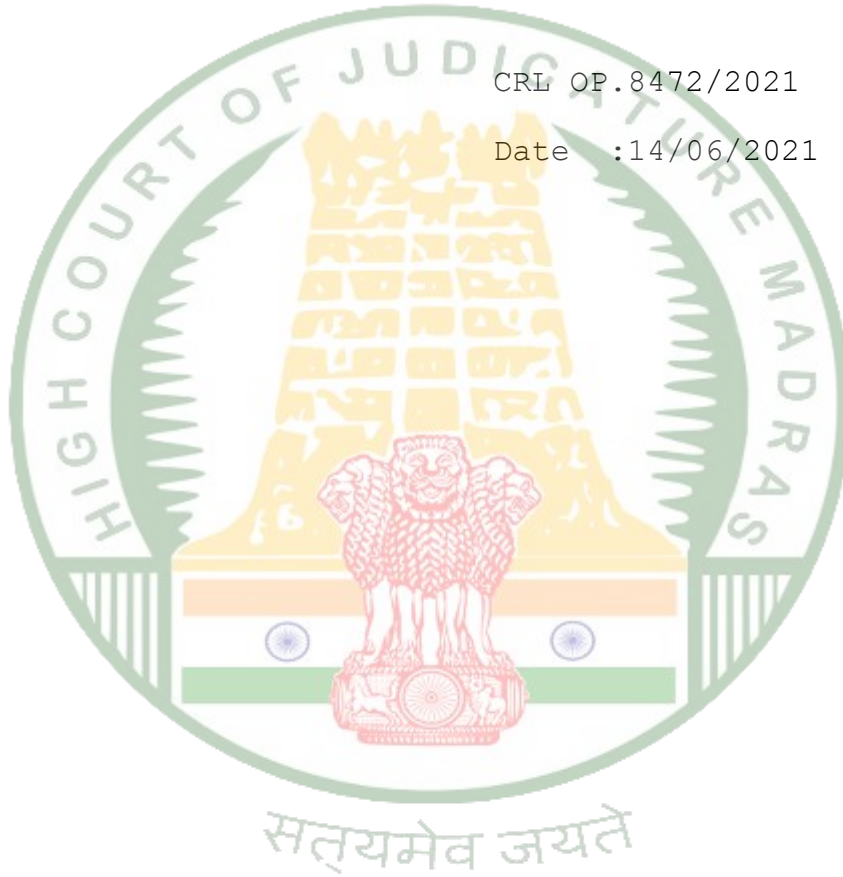
2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.SWARAJ ASSOCIATES Advocate on payment of necessary
charges

CRL OP.8472/2021

Date :14/06/2021

RVR 25/06/2021



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