



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved On : 17.03.2021
Pronounced On : 23.03.2021

PRESENT

The Hon'ble Mr. Justice M. NIRMAL KUMAR

CRL OP(MD). No.1521 of 2021

PN. Andrewprabhin Satheesh

... Petitioner/Sole Accused

Vs.

The State rep. By
The Inspector of Police,
All Women Police Station,
Marthandam, Kanyakumari District.
(Crime No.7 of 2021)

... Respondent/Complainant

For Petitioner : Mr. S. Kameswaran
Advocate.

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

For Intervener : Mr. M. Solaisamy

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

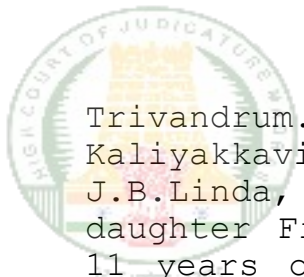
PRAYER :-

For Anticipatory Bail in Crime No.7/2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/sole accused apprehends arrest at the hands of the respondent police for the offences punishable under Sections 294(b), 307, 323, 324, 341, 352 and 506(ii) of IPC., and Section 4 of Tamil Nadu Prohibition of Woman Harassment Act, 2002, in Crime No.7 of 2021, on the file of the respondent Police, seeks anticipatory bail.

2. The learned counsel appearing for the petitioner submitted that the defacto complainant is none other than the estranged partner with whom the petitioner had living in relationship. The petitioner is the Doctor by profession and he was working at Dr. S. S. Memorial CSI Medical College & Hospital, Karakonam,

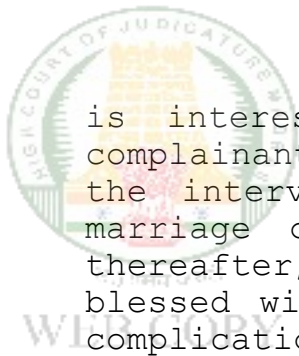


Trivandrum. The petitioner is also running a clinic at Kaliyakkavilai, Kanyakumari District. The Petitioner had married one J.B.Linda, on 07.05.2008 and out of their marriage, they got a daughter Fiano Andrea, who born on 28.09.2010. The daughter is now 11 years old. Due to some dispute between the petitioner and his Wife Linda, his daughter and wife living separately and the petitioner is living separately. There was some disturbances in their family life. The defacto complainant, who lost her husband Dinesh in the year 2017 had got acquainted with the petitioner and slowly they became very close, due to disturbed matrimonial life of the both.

3. The petitioner wanted to get out of the relationship, since he was not comfortable with the defacto complainant. Thereafter, the defacto complainant forced the petitioner to compensate her and hence, the petitioner had settled 9 properties, by way of settlement deed in the name of Asher, the minor son of the defacto complainant, on 05.05.2020, by registered document in Doc.No.940 of 2010 in SRO Munchirai and yet another property in the name of the defacto complainant on the same day. This settlement was done on the clear understanding that there would be no other connection and the petitioner and the defacto complainant have nothing to do with each other and to look after their life independently. The solemn assurance from the defacto complainant, the entire settlement was carried out, thereafter, the petitioner had been carrying on with his profession. Contrary to the understanding and agreement, in greed of money and to wreck vengeance, a false complaint has been lodged, which was enquired and closed. Thereafter, the petitioner has filed a petition under Section 156(3) Cr.P.C., before the learned Judicial Magistrate, Kuzhithurai, which was forwarded to the respondent police, who had registered the above case.

4. The learned counsel for the petitioner further submitted that the defacto complainant taking advantage of the relationship had deceitfully taken away the cheques and documents of the petitioner and handed over to one Chinna Pandi and through her associates have been lodging 138 NIA case, in C.C.No.134 of 2021, before the learned Judicial Magistrate No.I, Kovilpatti demanding that the petitioner had taken Rs.12 Lakhs as loan from him and also by pledging his vehicle R.C.Book and another R.C.Book received from one B.Gopinath of Vyasarpadi, Chennai. The defacto complainant had been engineering several cases and humiliating and causing harassment to the petitioner.

5. The intervener initially had a love and married one Rajaram Gour on 11.11.2010 and they were living a happy matrimonial life at Mauritius with her in-laws. The said Rajaram Gour was affected with tumor in his pancreas and died on 26.11.2017, thereafter, her inlaws sent her to London, for higher studies. The petitioner got introduced in a social media, Face Book and they became friendly



is interested in marrying the defacto complainant, the defacto complainant also expressed her willingness to marry. On 28.07.2018, the intervener came to India and the petitioner had arranged a marriage on 29.07.2018 at a Church in Kovalam, Trivendrum and thereafter, they were living as husband and wife and they are blessed with a boy A.J.Asher. The new born baby, born with some complications. On the representation of the petitioner that he needs money to get out of some problem, which was imminent and also assured that he would take care of the intervener and child. Believing the same, the intervener gave 40 sovereigns of gold ornaments and also Rs.80 Lakhs in cash and most of the transactions were made only through Bank.

6. In fact, the parents of the petitioner also accepted the marriage and they celebrated the birth day of the child. With the consent of the petitioner's parents, the petitioner gifted some of the property in the name of the petitioner's male baby boy. Latter, the defacto complainant came to know that the petitioner already married to one Dr.Linda and through her, he had got a child. The petitioner is now avoiding to meet the defacto complainant, when the same was questioned, the defacto complainant was abused, assaulted and threatened. Further, the petitioner is now unable to be contacted. On the other hand, the petitioner's parents filed a civil suit, disputing the settlement given to the petitioner as well as to the defacto complainant and her son. The defacto complainant had initially lodged a complaint to the respondent police, who failed to take any action, hence, she filed a petition under Section 156(3) Cr.P.C., and thereafter only, the above case came to be filed.

7. The defacto complainant filed a typed set of papers, wherein account statements had been produced. From the account statements it is seen that Rs.3 lakhs had been paid to the defacto complainant on 22.09.2020, further the statement of accounts of one Vishnu, Malarvizhi and that of the petitioner have been filed to show that the petitioner had been receiving money from these people regularly and this has been arranged by the defacto complainant and now she is held responsible.

8. The learned Government Advocate (Criminal side) appearing for the respondent Police, on instructions, submitted that the petitioner and the defacto complainant were having living in relationship and out of the relationship, a male child was born and from the year 2018 to 2020 the relationship was cordial. Thereafter, for obvious reasons, there have been some misunderstanding between the petitioner and the defacto complainant and hence, they got separated. During the relationship, the petitioner had also settled 9 properties in the name of the boy and one property in the name of the defacto complainant. Now, the complaint is that the defacto complainant is not taking proper care



further he had also taken away her jewels and cash. Investigation commenced and only on through investigation, the allegations and counter allegations between them could be found.

9. The learned Government Advocate further submitted that All Women Police Station, Marthandam had received the complaint under Section 156(3) Cr.P.C., forwarded by the learned Judicial Magistrate No.I, Kuzhithurai in C.M.P.No.3084 of 2020, dated 18.12.2020, thereafter, FIR was registered. On 28.01.2021, the respondent police had sent a communication to the Deputy Superintendent of Police, Thuckalay, informing that the offence involved is a law and order issue and further on the point of jurisdiction, the FIR has been sent to Kaliyakavilai Police Station and now investigation is pending before the Inspector of Police, Kaliyakavilai.

10. I have heard the learned counsel appearing on either side and perused the materials available on record.

11. Considering the rival submissions and on perusal of the materials finding that there have been living in relationship between the petitioner and the defacto complainant and thereafter, some misunderstanding arose, the petitioner had settled totally 10 properties, 9 in the name of the minor son and one in the name of the defacto complainant. thereafter, this complaint has been lodged and the relationship between the petitioner and the defacto complainant is during the period 2018 to 2020 and thereafter, the relationship got strained, in view of the same, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions;

12. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.1, Kuzhithurai, Kanyakumari District, on condition that the petitioner shall execute 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a) the petitioner 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 petitioner shall report before the respondent police as and when required for interrogation.

(c) the petitioner shall not tamper with evidence or witness
<https://hccasesecourtscdn.in/services/> investigation or trial;



(d) the petitioner 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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 thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

23/03/2021

/ TRUE COPY /

/ /2021

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 JUDICIAL MAGISTRATE NO.I,
KUZHITHURAI, KANYAKUMARI DISTRICT.
2. -DO- THROUGH: THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
3. THE DEPUTY SUPERINTENDENT OF POLICE,
THUCKALAY, KANYAKUMARI DISTRICT.
4. THE INSPECTOR OF POLICE,,
KALIYAKAVILAI POLICE STATION, KANYAKUMARI DISTRICT.
5. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, MARTHANDAM,
KANYAKUMARI DISTRICT.
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN

CRL OP(MD) No.1521 of 2021

Date :23/03/2021

MRK

SRS/SMA/26.03.2021/5P/7C

<https://hcservices.ecourts.gov.in/hcservices/>