



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 30/06/2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD) . No.3117 of 2021

C.Sundarapandian

... Petitioner/Accused

Vs

The State rep.by,
The Inspector of Police,
Palani Town Police Station,
Palani,
Dindigul District.
Crime No.103/2021.

... Respondent/Complainant

Shanmugavalli

... Intervener/Defacto Complainant
in CrI.MP (MD) No.2077/2021
in CrI.OP (MD) No.3117/2021

For Petitioner : Mr.J.Lawrance,
Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

For Intervenor : Mr.M.Shakul Hameed
Advocate.

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

PRAYER :-

For Anticipatory Bail in Crime No.103 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 294(b), 323, 506(i), 420 and 313 of IPC in Crime No.103 of 2021, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that she is living separately from the year 2015 for the reason that she had differences with her husband. In the year 2016, the petitioner came to know the de-facto complainant. Petitioner told her that he is also a divorcee and promised to marry the de-facto complainant. On the basis of his promise, they got married on 15.03.2018 at Kurinchi Andavar Temple,



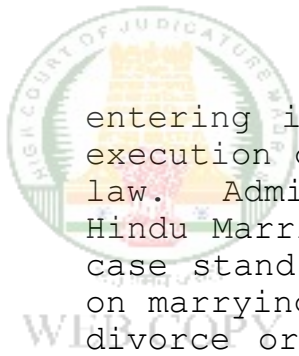
Kodaikanal. Thereafter, they lived as a husband and wife at police quarters. During their marital life, the de-facto complainant got conceived three times and at the instance of the petitioner, she aborted the fetus. On 23.09.2020, she found that the petitioner had already got married and has children through his wife. When the same was questioned by the de-facto complainant, the petitioner scolded her in filthy language. He had taken 10 sovereigns of gold jewels and Rs.1,00,000/- cash from her and threw her out of the house. Therefore, she gave a complaint to the Superintendent of Police, Dindigul on 28.09.2020. On 07.10.2020, she attended an enquiry conducted by the Deputy Superintendent of Police, Palani. After enquiry, she was scolded by the petitioner and his wife. No action had been taken against the petitioner. Therefore, she has given this complaint.

3.The learned counsel for the petitioner submitted that the petitioner is innocent and he has been falsely implicated in this case. He further submitted that the de-facto complainant is in a habit of marrying persons, divorcing them and then, go for another person. In support of his contention, he produced copies of divorce agreement entered into between the de-facto complainant and Murugesan, dated 20.01.2015 and another declaration deed, dated 23.02.2015 entered into between both of them. He further submitted that the petitioner is the fourth husband of the de-facto complainant. Therefore, this is a false case that has been foisted only to harass and get money from the petitioner. Hence, he seeks anticipatory bail to the petitioner.

4.The learned counsel for the intervenor strongly opposed this petition on the ground that the de-facto complainant's earlier marriage had been terminated by customary divorce and in the case before hand, the petitioner had taken 10 sovereigns of gold jewels and Rs.1,00,000/- cash. He further submitted that the petitioner also represented to her that he was a divorcee and married her and compelled her to abort the fetus on three times. Therefore, he prays for dismissal of this petition.

5.The learned Additional Public Prosecutor for the respondent strongly opposed this petition on the ground that the petitioner made the de-facto complainant to abort the fetus on three times and that he had taken 10 sovereigns of gold and Rs.1,00,000/- cash.

6.It is seen from the submissions made and the records perused, even as per the admitted case of the learned counsel for the de-facto complainant that the name of her first husband is Swamysundaram. She says that this marriage was terminated by customary divorce. The perusal of copy of divorce agreement, dated 20.10.2015 and copy of the declaration deed, dated 23.02.2015 shows that the de-facto complainant had married one Murugesan. It appears that the marriage also ended in failure and it was terminated by



entering into a divorce agreement deed. Divorcing a marriage by execution of document, titled divorce agreement deed is not known to law. Admittedly, the parties are Hindus and they are governed by Hindu Marriage Act for dissolving their marriage. The facts of the case stand as of, now, show that the de-facto complainant was going on marrying persons and terminating the marriage either by customary divorce or by executing agreement. In law, it has to be concluded that even her first marriage is not validly terminated. When she already got married, it is not known how she developed friendship with the petitioner and said to have married him. It is an illegal act on the part of the de-facto complainant. In the facts and circumstances of the case, this Court considers that the custodial interrogation of the petitioner is not necessary. The First Information Report is pending from 18.02.2021, without any progress. This Court is of the considered view that if anticipatory bail is granted with a direction to the petitioner to co-operate with the respondent police for investigation, the investigation can be concluded and then, the trial could be proceeded with.

7. In this view of the matter, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Palani, Dindigul 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 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, daily at 10.30 a.m., until further orders;

[c] the petitioner shall not tamper with evidence or witness either during 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]**;



[f]If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
30/06/2021

WEB COPY

/ 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, PALANI.
- 2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
DINDUGAL DISTRICT.
- 3.THE INSPECTOR OF POLICE,
PALANI TOWN POLICE STATION, PALANI,
DINDIGUL DISTRICT.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to Mr.J.LAWRANCE, Advocate SR.No.4283

ORDER
IN
CRL OP(MD) No.3117 of 2021
Date :30/06/2021

SJI
PK/MNR/SAR-III/06.07.2021 : 4P/6C