



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 16/09/2021

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PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD).No.12454 of 2021

S.P.Subramani

... Petitioner/Accused
Rank Not Known

Vs

State rep.by
The Inspector of Police,
Karur Town Police Station,
Karur District.
(Crime No.Not known of 2021).

... Respondent/Complainant

For Petitioner : M/s.S.Prabha, Advocate for
M/s.Gokulraj S, Advocate.

For Respondent : M/s.E.Antony Sahaya Prabhakar,
Additional Public Prosecutor

For Intervenor : M/s.M.Palani Raja, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.Not Known of 2021 on the
file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/accused, apprehending arrest at the hands of the
respondent police for the alleged offence punishable under Sections
294(b), 323 and 506(i) of IPC, in Crime No.Not Known of 2021 on the
file of the respondent police, seeks anticipatory bail.

2. The petitioner has filed this petition on 25.08.2021. The
learned counsel appearing for the petitioner submits that one
<https://hcservices.ecourts.gov.in/hcservices/>
Sureshkumar has lodged a complaint as against this petitioner that
when he was standing in front of the Sub-Registrar Office, the



petitioner criminally intimidated him and also abused with filthy language.

3. He further submits that the petitioner and the defacto complainant are residing in the same village. The defacto complainant is claiming right over the property of the petitioner, as if he had contributed to purchase the property. However, the defacto complainant in order to extract money from the petitioner, had chosen to lodge a false complaint as if he was threatened by the petitioner. After receiving the complaint, the respondent police had insisted the petitioner to pay a sum of Rs.20,00,000/- to the defacto complainant or otherwise threatened to put him behind the bars.

4. He further submits that the respondent police persistently called the petitioner for enquiry and finally on 19.08.2021 sent summons under Section 91 of Cr.P.C. In fact, on 08.08.2021 the petitioner had appeared before the respondent police and given sufficient explanation that no such occurrence had happened as per the complaint of the defacto complainant. He further submits that the respondent police are conducting "Kangaroo Court" in the police Station and the petitioner is taking steps to file appropriate petition before this Court. Further, there are CCTV cameras installed in the Registrar's Office and if any such occurrence had happened as alleged by the defacto complainant, definitely the same would have been recorded in the CCTV camera. Further, the petitioner has not even visited the place at the time of alleged occurrence.

5. This Court, by order dated 02.09.2021 directed the respondent police to conduct an enquiry and to register a case, if any cognizable offence was made out as against the petitioner, or to close the petition enquiry within a period of two weeks and to file a report before this Court on 16.09.2021 (today).

6. Today, when the matter is taken up for hearing, the respondent police have not filed any report, instead, they have taken a stand that the petitioner has not co-operated for the enquiry.

7. The Hon'ble Supreme court in the decision reported in **(2014) 2 SCC 1, [Lalitha Kumari Vs. Government of Uttar Pradesh]**, has discussed in detail as to the manner in which cases have to be registered and issued series of directions to be followed by the investigating officer on receipt of a complaint. For better understanding, the relevant portions are extracted hereunder:

"120. In view of the aforesaid discussion, we hold:

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

120.1. The registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable



offence and no preliminary inquiry is permissible in such a situation.

120.2. If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.

120.3. If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.

120.4. The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.

120.5. The scope of preliminary inquiry is not to verify the veracity or otherwise of the information received but only to ascertain whether the information reveals any cognizable offence.

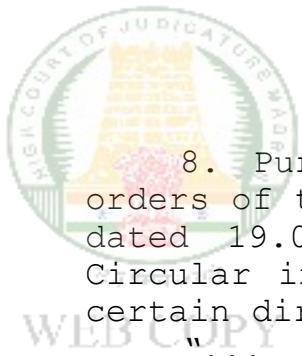
120.6. As to what type and in which cases preliminary inquiry is to be conducted will depend on the facts and circumstances of each case. The category of cases in which preliminary inquiry may be made are as under:

- (a) Matrimonial disputes/family disputes
- (b) Commercial offences
- (c) Medical negligence cases
- (d) Corruption cases
- (e) Cases where there is abnormal delay/laches in initiating criminal prosecution, for example, over 3 months' delay in reporting the matter without satisfactorily explaining the reasons for delay.

The aforesaid are only illustrations and not exhaustive of all conditions which may warrant preliminary inquiry.

120.7. While ensuring and protecting the rights of the accused and the complainant, a preliminary inquiry should be made time-bound and in any case it should not exceed 7 days. The fact of such delay and the causes of it must be reflected in the General Diary entry.

120.8. Since the General Diary/Station Diary/Daily Diary is the record of all information received in a police station, we direct that all information relating to cognizable offences, whether resulting in registration of FIR or leading to an inquiry, must be meticulously reflected in the said diary and the decision to conduct a preliminary inquiry must also be reflected, as mentioned above."



8. Pursuant to the aforesaid directions and pursuant to the orders of this Court in CrI.OP.(MD)Nos.6493 of 2018 & 17119 of 2017, dated 19.07.2018, the Director General of Police has issued a Circular in Rc.No.226313/Crime.4(3)/2013, dated 26.07.2018, issuing certain directions / instructions, which reads as follows:

3) Hence, all Unit Officers are instructed to adhere to the following instructions in future without fail:-

"... ix) As seen from several cases, the Investigators have lack of legal knowledge to deal with the complaints, viz., civil disputes, money transactions, family disputes etc., Therefore, it is useful to extract the following desirable attributes of a good criminal investigator which are described in the book, viz., Encyclopedia of Police Law and Crimes:

a) Observation powers should be highly developed and specialized.

b) Report writing must be of better quality because the investigator's finished report will determine whether or not the case will go to court.

c) An investigator should be extrovert, he must have the ability to talk to people he doesn't know and gain their confidence within a short period of time.

d) Motivation the investigator must feel he is doing a good job and is performing an important and useful function.

e) A good investigator must be confident he has the abilities to do a good job.

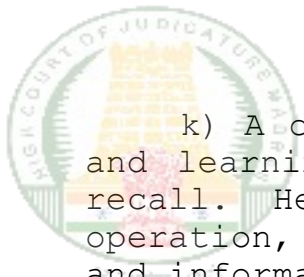
f) The investigator must have a real interest in the criminal investigation filed, a natural curiosity, or inquisitiveness.

g) The ability to work without close supervision is essential. An investigator must be able to work and accomplish a task on his own.

h) Open-mindedness - the investigator must not jump to hasty conclusions.

i) Perseverance and patience - usually, an investigator is working on several cases simultaneously and must attend to a great deal of detail. The investigator needs the patience required for details, stakeouts and long drawn-out proceedings.

j) The criminal investigator should have a logical mind so he can reconstruct the sequence of events. The investigator should also have the imagination to conjecture what possibly could have occurred while the crime was being committed.



k) A criminal investigator must have above-average intelligence and learning ability. The investigator needs excellent memory and recall. He should have the ability to identify a method of operation, the similarities among cases, and the value of evidence and information.

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l) Resourcefulness - a good investigator investigates crimes as an impartial collector of information without bias or prejudice. He must also have the integrity to reject bribes.

m) The criminal investigator must possess a considerable amount of knowledge about the legalities involved in charging a suspect with a crime and prosecuting the crime in court.

n) The investigator should have an average, inconspicuous physical appearance. The investigation unit should have a balance of male and female investigators.

o) The Hon'ble High Court of Madras has come across several Criminal Original Petitions, wherein, the Investigation Officers slept over the complaints for several months / years in view of lack of above qualities to decide the complaint, which would cause unnecessary hardship to the complainant in getting statutory remedy before the respondents.

p) The enquiry should be completed upon the complaint within 15 days from the date of receipt of the complaint, in exceptional cases six weeks. Further, the status of the complaint should be communicated to the defacto complainant through RPAD / e-mail or through SMS within the aforesaid period.

q) The Monitoring Committee shall review all the case once in two months and submit a report to the Unit Officer concerned without any deviation.

4) The Unit Officers shall submit a report to the Director General of Police within one month from the date of receipt of a report from the Monitoring Committee, thereafter, if any deviation is noted, three months time is granted to take further action against the erring officer, after providing opportunity to submit his/her explanation.

5) The Periodical training programmes to the Investigating Officers to update their legal knowledge, especially on civil and criminal law and court procedures by utilizing services of retired Judges as well as Senior Advocates who are specialized on the civil and criminal laws.

6) The Monitoring Committee shall review all the cases once in two months whether the Station House Officers in their jurisdiction have followed the guidelines / directions issued by the Hon'ble Supreme Court of India in "Lalitha Kumari" case in respect of



registering FIR in letter and spirit and submit report to the unit officer concerned for taking necessary action. Based on the report of the Monitoring Committee, the unit officers concerned shall take necessary disciplinary action against the erring police personnel for their failure. ..."

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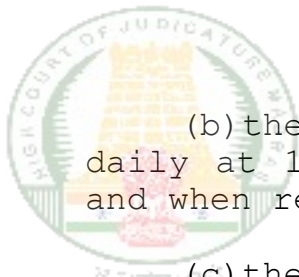
9. The police are provided with the power of investigation only after registering the complaint. But, in certain cases, they can proceed with the investigation even without registering the complaint. In order to avoid any abuse of power, the Hon'ble Supreme Court has permitted the police to conduct preliminary enquiry in respect of certain cases alone, as stated supra. But it does not mean that the police can proceed with the enquiry for months together as petition enquiry. An ultimatum has been issued by the Hon'ble Supreme Court that the preliminary enquiry should be completed in a time bound manner, not exceeding 15 days and in case of time extension, by adducing adequate reasons in the general diary, the time can be extended, that too for a maximum of six weeks. The circular issued by the Director General of Police also sails with the directions of the Hon'ble Supreme Court and in fact, in the Circular, the Director General of Police has also made it clear that the Monitoring Committee has to review the cases as to whether the directions issued in **Lalitha Kumari's** case has been scrupulously followed or not and based on its report, the Unit Officers have to take appropriate action against the erring officials.

10. Despite the availability of the aforesaid directions of the Hon'ble Supreme Court and the Circular issued by the Director General of Police, it appears that in this case, a petition enquiry is kept pending for nearly 2 months and the respondent has conducted a Kangaroo Court.

11. Taking into consideration of the facts and circumstances of the case, the conduct of the respondent police and the decision in **Lalitha Kumari's** case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

12. Accordingly, this Criminal Original Petition is allowed and 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.I, Karur, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five thousand only) with two sureties each for a like sum to the satisfaction of the learned Court concerned and on further conditions that:

(a) the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity;



(b) the petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter, as and when required.

(c) the petitioner shall not tamper with the 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]**; and;

(f) if the accused/ petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

Sd/-
16/09/2021

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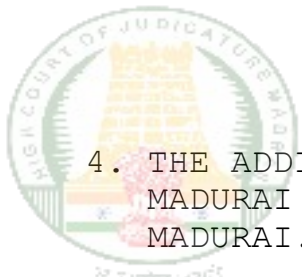
/ /2021
Sub-Assistant Registrar (C.S.I)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AM/csm

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,
KARUR.
2. THE CHIEF JUDICIAL MAGISTRATE,
KARUR.
3. THE INSPECTOR OF POLICE,
KARUR TOWN POLICE STATION,
KARUR DISTRICT.



4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

THE SUPERINTENDENT OF POLICE,
KARUR DISTRICT.

+1. CC to M/S.GOKULARJ S Advocate SR.No.6323

ORDER
IN
CRL OP(MD) No.12454 of 2021
Date :16/09/2021

SP/PN/SAR/24/08/2021/8P/7C