



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

Date : 01/10/2021

PRESENT

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The Hon'ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.14780 of 2021

1. D.GOPI @ GOPIDHAYALAN
2. S.CHELLAKKANNU

... PETITIONERS/ACCUSED 1&2

VS

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
VADAMADURAI POLICE STATION,
VADAMADURAI,
DINDIGUL DISTRICT.
(CRIME NO.849 OF 2021).

... RESPONDENT/COMPLAINANT

For Petitioner : Mr.S.R.Sureshkumar, Advocate.

For Respondent : Mr.P.Kottai Chamy,
Government Advocate (Crl.Side)

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

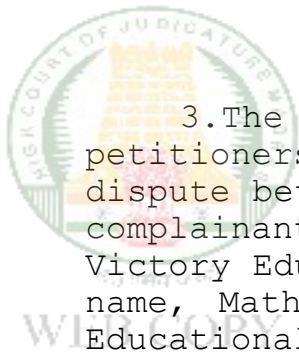
PRAYER :-

For Anticipatory Bail in Crime No. 849 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners/A1 and A2, who apprehend arrest at the hands of the respondent Police, for the offence punishable under Sections 341, 323, 354 and 294(b) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, in Crime No.849 of 2021, on the file of the respondent Police, seek anticipatory bail.

2. The case of the prosecution is that the defacto complainant and her husband were travelling in a car from Kambiliyampatty to Dindigul. when they reached near Akkaraipatty, the petitioners intercepted them and the second petitioner questioned her husband about his remand. The defacto complainant's husband got down from the car and moved towards the second petitioner. The first petitioner came in front of her husband and when the defacto complainant tried to prevent the quarrel, the first petitioner pulled her chudithar shawl and torn it. When the defacto complainant quarreled with the first petitioner for the same, he threw the shawl on her and tried to escape by a bus. Hence, the complaint.



3.The learned counsel for the petitioners submitted that the petitioners and the defacto complainant are relatives. There is a dispute between the first petitioner's mother-in-law and the defacto complainant's husband regarding management of a trust, by name, Victory Educational Trust. The first petitioner's mother-in-law, by name, Mathavi @ Malathi Sherin is the founder trustee of Victory Educational Trust and she is the Managing trustee from 25.06.2021 after the demise of her husband/former Managing Trustee Mr.Vadivel. The former trustee had two wives. The first wife, Shanthakumari, is the mother-in-law of the defacto complainant and the second wife, Mathavi @ Malathi Sherin, is the mother-in-law of the first petitioner. The defacto complainant's husband Mr.Rajarajan is also claiming as a Managing Trustee of the above trust and there was a dispute between them.

4.The learned counsel for the petitioners further submitted that three trustees, including the wife of the first petitioner, filed a suit in O.S.No.213 of 2021 against six persons, on the file of the Additional District Court [Mahila Fast Track], Dindigul, regarding the management of the trust. The defacto complainant and her husband are parties in the above suit. In the above suit, an interim order was granted in favour of the first petitioner's mother-in-law.

5.The learned counsel for the petitioners further submitted that on 19.09.2021, the defacto complainant, with the help of a timber merchant, uprooted tamarind trees, Neem trees, Eucalyptus and other trees worth about Rs.5,00,000/- from the land belonging to the first petitioner's mother-in-law. Immediately after knowing the fact, the first petitioner's mother-in-law informed about the same over phone to the respondent police and lodged a written complaint on the next day morning (i.e. on 20.09.2021). The respondent Police informed the petitioners to submit a VAO certificate regarding the ownership. The petitioners obtained the certificate from the VAO and submitted to the police station and on the way to Vadamadurai, near Akkaraipatty, they saw a tractor bearing Reg.No.TN32 X 6593 transporting the stolen trees. Immediately, the first petitioner informed the same to the Sub Inspector of the respondent Police station over phone. The Sub-Inspector instructed the first petitioner to give the mobile phone to the tractor driver, at that time, the defacto complainant and others came and tried to rob the mobile and shouted and created a scene there.

6.The learned counsel for the petitioners further submitted that the defacto complainant and her husband are advocates and they sold the trees from the private property of Mathavi @ Malathi Sherin and on knowing the complaint, they themselves shouted and created a scene in a public place and made a false complaint.

7.The learned Government Advocate (Crl. Side) submits that the investigation is yet to be completed. He further submits that no one has been injured in the said incident.



8. Considering the facts and circumstances of the case, the nature of allegations levelled against the parties and also the fact that the petitioners and the defacto complainant are relatives; the pendency of a civil dispute and no one has been injured in the incident, this Court is inclined to grant anticipatory bail to the petitioners.

9. Accordingly, the Criminal Original Petition is allowed. The petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Vedasanthur, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each, with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

(a) the petitioners 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 petitioners shall report before the respondent police daily at 10.30 a.m. until further orders;

(c) the petitioners shall not tamper with the evidence or witness either during investigation or trial;

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

sd/-
01/10/2021

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

ORDER
IN
CRL OP(MD) No.14780 of 2021
Date :01/10/2021

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