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CRL OP(MD). No.4056 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

RESERVED ON : 28/03/2022

PRONOUNCED ON : 04/04/2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.4056 of 2022

1. Stanli Raja,

2. Francis Angelo,

3. Victoria,

... Petitioners/Accused Nos. 1 to 3

Vs

The State rep by,
The Inspector of Police,
Devakottai All Women Police Station,
Sivagangai District.
Cr.No. 1 of 2022.

... Respondent/Complainant

Robin Clara

...Intervener/Defacto Complainant
in CRL MP(MD)No. 3215 of 2022

For Petitioner : M/s.A.Banumathy, Advocate.

For Respondent : Mr.M. Muthumanikkam,
Government Advocate (Crl.Side)

For Intervenor : Mr.R.Senthilkumar, Advocate
in CRL MP(MD)No.3215 of 2022

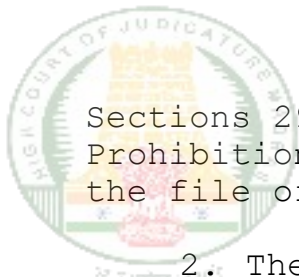
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime No.1 of 2022 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioners/ Accused Nos.1 to 3, who apprehend arrest at
<https://hsresrecords.gov.in/fcse/vlcs/> respondent police for the offences punishable under



Sections 294(b), 323, 498(A), 420 I.P.C., and Section 4 of Tami Nadu Prohibition of Women Harassment Act, 1998 in Crime No.1 of 2022, on the file of the respondent police, seek anticipatory bail.

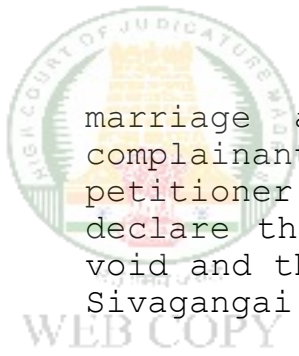
2. The case of the prosecution is that the defacto complainant got married the first petitioner on 08.09.2019 without the knowledge of their parents, that there existed dispute between the petitioners and the defacto complainant and on 10.05.2020 the petitioners had abused the defacto complainant with filthy language and assaulted her and that they have also harassed her. Hence, the present complaint.

3. The petitioners' case is that they are innocents and they have not committed any offence as alleged and that with ulterior motive, the defacto complainant has lodged the above complaint falsely implicating the petitioners.

4. Admittedly, the second petitioner is the father and the third petitioner is the mother of the first petitioner. The case of the defacto complainant/intervenor is that she had completed M.Sc., and the first accused has completed M.B.A., that the first accused was in love with the defacto complainant from 2011 onwards, that when the love affairs was informed to the first petitioner's family, they had demanded dowry of 100sovereigns of jewels, one car, bike and household articles, that accused No.1 had married the defacto complainant at Sahayamatha Church, Karaikudi on 08.09.2019 and subsequently, registered their marriage before the Registrar, Church of Christ, Chennai on 20.09.2019, that thereafter the factum of marriage was revealed to the petitioners 2 and 3 and others, that thereafter, the petitioners had demanded the dowry above mentioned in the month of January 2020, that the accused had continuously harassed the defacto complainant and on due to their harassment, she had aborted and that the petitioners have sent the defacto complainant out of matrimonial house, based on the dowry demand.

5. It is the further case of the defacto complainant that at the intervention of the village elders, the defacto complainant's parents assured to give 50 sovereigns of jewels and the accused have allowed the defacto complainant to enter into the house, only after receiving the jewels and that thereafter as usual, they had abused the defacto complainant in filthy language and assaulted her by demanding dowry and sent her out of matrimonial home in midnight.

6. The petitioners' case is that on 08.09.2019, the defacto complainant had informed the first petitioner to attend her friend's marriage at the Church of Christ, Chennai, that the first petitioner went to the above Church, that the defacto complainant requested him to put his signature as witness of the said marriage, that the first petitioner had also put his signature as witness and that thereafter, the first petitioner came to know that the defacto complainant fabricated the documents and she registered the



marriage as if the first petitioner had married the defacto complainant and thereby she had cheated him, that the first petitioner had already filed a petition in I.D.O.P.No.39 of 2021 to declare that the marriage allegedly held on 08.09.2019 is null and void and that the same is pending on the file of the District Court, Sivagangai.

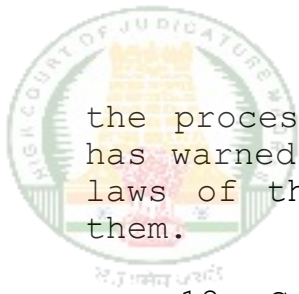
7. The learned Counsel for the defacto complainant would submit that the first petitioner had appeared before the All Women Police Station, Devakottai and specifically admitted the factum of marriage and that since both the families are belonging to same community and are related to each other, they would settle the issues amicably and produced the copy of the letter given by the first petitioner along with the typed set of papers.

8. The learned Government Advocate (Crl.Side) appearing for the State would submit that the defacto complainant has raised specific allegations against the first petitioner and that the first petitioner after marrying the defacto complainant and got the marriage registered, has subsequently filed a petition alleging that there was no marriage and the defacto complainant had fabricated the records as if their marriage was conducted and sought declaration that their marriage is null and void, but in the subsequent enquiry, he has given a specific statement admitting the marriage.

9. Whatever it is, whether the marriage alleged to have taken place between the first petitioner and the defacto complainant is valid and legal cannot be gone into by this Court and it is a matter to be decided by the competent matrimonial Court. But at the same time, considering the gravity and seriousness allegations and charges against the first petitioner who is the main accused, this Court is not inclined to grant anticipatory bail to the first petitioner. Accordingly, the Criminal Original Petition is dismissed as against the first petitioner.

10. As rightly contended by the learned Counsel for the petitioners, the defcto complainant has raised general and omnibus allegations against the other petitioners.

11. The Hon'ble Supreme Court in **Kahkashan Kausar @ Sonam and others Vs. State of Bihar and others**, reported in **2022 (2) BLJ 75** [Crl.A.No.195 of 2022], dated 08.02.2022, after referring to various decisions of Supreme Court has observed that the Supreme Court has at numerous instances expressed concern over the misuse of section 498A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analysing the long term ramifications of a trial on the complainant as well as the accused and that it is manifest from the said judgments that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of



the process of law. Therefore, this court by way of its judgments has warned the courts from proceeding against the relatives and in-laws of the husband when no prima facie case is made out against them.

12. Considering the fact that the petitioners 2 and 3 are the aged parents of the first petitioner and considering the nature of the charges levelled against them and that they are not having any bad antecedents, this Court is inclined to grant anticipatory bail to the petitioners 2 and 3 with certain conditions.

13. Accordingly, the petitioners 2 and 3 are ordered to be released on bail in the event of their 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, Devakottai, Sivagangai District, 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 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 petitioners 2 and 3 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;

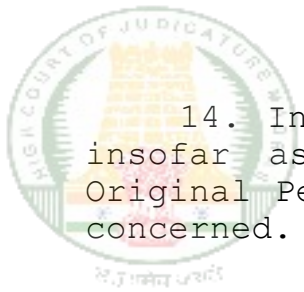
(b) the petitioners 2 and 3 shall report before the respondent police as and when required for interrogation.

(c) the petitioners 2 and 3 shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioners 2 and 3 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 2 and 3 in accordance with law as if the conditions have been imposed and the petitioners 2 and 3 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.



14. In the result, the Criminal Original Petition is dismissed insofar as the first petitioner is concerned and the Criminal Original Petition is ordered insofar as the petitioners 2 and 3 are concerned.

sd/-
04/04/2022

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

SSL

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,
DEVAKOTTAI,
SIVAGANGAI DISTRICT.
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.
- 3 THE INSPECTOR OF POLICE
DEVAKOTTAI ALL WOMEN POLICE STATION,
SIVAGANGAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADRURAI.

+1 CC to M/s.A.BANUMATHY, Advocate (SR-2961[I] dated 05/04/2022)

ORDER
IN
CRL OP(MD) No.4056 of 2022
Date :04/04/2022

PKP/SVR/SAR-2/12.04.2022/5P/6C