



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
RESERVED ON : 12/04/2022
PRONOUNCED ON: 22/04/2022
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.4413 of 2022

WEB COPY

N.Muniyasamy

... Petitioner/Sole Accused

Vs

State Rep.by
The Sub-Inspector of Police,
Kamuthi Police Station,
Ramanathapuram District.
(Crime No.817 of 2021)

... Respondent/Complainant

For Petitioner : Mr.R.Venkatesan
For Respondent : Mr.M.Muthumanikkam
Government Advocate (Crl.Side)
for R.1
For Intervenor : Mr.C.M.Arumugam

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

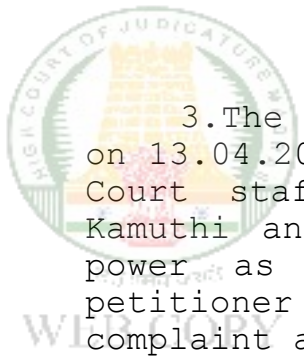
PRAYER :-

For Anticipatory Bail in Crime No.817 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 353, 354, 506(i) I.P.C., r/w Section 4 of Tamil Nadu Women Harassment Act, in Cr.No.817 of 2021, on the file of the respondent police.

2.The defacto complainant has filed a writ petition in W.P.(MD) No.21890 of 2021 for issuance of a Writ of Mandamus, directing the respondent police to register the complaint of the complainant, dated 04.12.2021 and the learned Judge of this Court, by observing that the materials available on record clearly make out offences under Sections 353, 354, I.P.C., r/w Section 4 of Tamil Nadu Women Harassment Act, directed the respondent police to register the F.I.R., based on the complainant's complaint dated 04.12.2021 and on that basis, the present F.I.R., came to be registered in Cr.No.817 of 2021, dated 31.12.2021 for the offences under Sections 353, 354, 506(i) I.P.C., r/w Section 4 of Tamil Nadu Women Harassment Act.



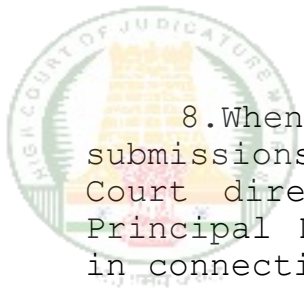
3.The case of the prosecution is that the petitioner/accused, on 13.04.2022, had sexually harassed xxxxxxxx, who was working as a Court staff at District Munsif cum Judicial Magistrate Court, Kamuthi and he also attempted to tear off clothes, by using his power as President of Kamuthi Bar Association and that the petitioner had also threatened the said staff not to lodge any complaint against him.

4.The petitioner's case is that he has not committed any offence as alleged, that the said Court staff has not lodged any complaint anywhere against the petitioner, that the said Court staff, even at the time of enquiry conducted by the learned Judicial Magistrate, has not raised any allegations against the petitioner, that the said Court staff got voluntary transfer from that Court and consequently the enquiry was closed by settling the issue without further progress and that the defacto complainant who has criminal background, has lodged the complaint falsely implicating the petitioner.

5.The learned Counsel for the petitioner would submit that the defacto complainant has circulated audio message through whats app with highly unparliamentary words by abusing the legal fraternity, that based on the complaint lodged by the petitioner, the F.I.R., came to be registered against him for the offence under Section 294 (b) I.P.C. and that the defacto complainant as a counter blast has preferred the present complaint due to personal grudge.

6.It is the further case of the petitioner that the defacto complainant has filed the Criminal Original Petition in Crl.O.P.(MD) No.20055 of 2021 to quash the F.I.R., registered against him, that the petitioner's Bar Association has filed intervening petition, that during the pendency of the above said Criminal Original Petition, the present F.I.R., came to be registered and hence, due to the apprehension of the arrest, the petitioner could not be able to produce the evidence against the defacto complainant, that subsequently, the said Crl.O.P.(MD)No.20055 of 2021 was allowed by observing that the defacto complainant has to send apology letters to all the Bar members.

7.The learned Counsel for the intervenor would submit that on 13.04.2021 between 03.30p.m., to 04.00p.m., in the Court office premises itself, the petitioner had sexually harassed the Court staff who came to the office on turn duty, that the said alleged staff who was appointed on compassionate ground due to the death of her husband, was unable to manage the abrupt and awkward incident, still under panic and lost her courage, even to disclose the occurrence to anyone including the Presiding Officer of that Court, that only in the subsequent enquiry, she disclosed the incident and that since the intervenor's complaint was not considered, he was forced to file the writ petition and got the order for registration



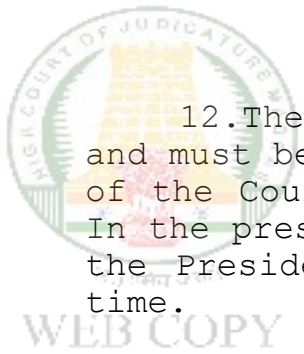
8. When the matter was taken up on 15.003.2022, considering the submissions made by the learned Counsel for the intervenor, this Court directed the registry to place the report of the learned Principal District Judge, Ramanathapuram, dated 15.12.2021 received in connection with the petition in W.P.(MD)No.21890 of 2021.

9. In pursuance of the said direction, the report of the learned Principal District Judge, Ramanathapuram along with the final report of GSICC Committee, Ramanathapuram and with other connected papers were placed before this Court.

10. The learned Judge of this Court, after perusing the report of the Principal District Judge, Ramanathapuram, along with the final report of GSICC Committee, Ramanathapuram, has observed as follows in W.P.(MD)No.21890 of 2021, dated 16.12.2021:

"5. The allegations are extremely serious. The matter concerns the safety of a woman employee and the sanctity of the court. The Principal District Judge, Ramanathapuram, in his report has confirmed that the victim had categorically stated that the allegations made by her against Thiru.Muniyasamy, Bar President are true. She however did not want to pursue the matter because she has been granted the relief of transfer. While the complainant/victim may not want to pursue the matter, the Court cannot be a mute spectator to the incident. It cannot gloss it over. Here is a case where there are prima facie materials to show that the Bar President in a drunken condition misbehaved with a lady Court staff in the Court premises during working hours. The occurrence is said to have taken place on 13.04.2021. It is stated that it was a holiday(Ugadi). The victim was on turn duty and alone in the office. According to her, Thiru.N.Muniyasamy came to her seat at around 3.15 p.m. in a drunken condition and made an improper proposal. After the victim severely warned him, Thiru.Muniyasamy retreated but told her that he would wait for her. The petitioner asserts before me that he happened to see the CCTV footage. According to the petitioner, Thiru.Muniyasamy is seen sexually molesting the victim by pulling her hand and doing a few more things."

11. Admittedly the petitioner as well as the defacto complainant are practicing advocates at Kamuthi Court. As already pointed out, the petitioner has attributed motive against the defacto complainant for lodging the present complaint. But the fact remains that on the basis of the complaint lodged by the petitioner, F.I.R., came to be registered only for offence under Section 294(b) I.P.C. and at the instance of the defacto complainant, the same was quashed by this Court.



12.The main quality of an Advocate is that he should be honest and must be a man of integrity and character. As being the Officers of the Court, they are expected to stand as an example for others. In the present case, the petitioner is not only an advocate, but was the President of Kamuthi Bar Association at the relevant point of time.

13.The learned Government Advocate (Crl.Side) appearing for the State would submit that the incident narrated by the defacto complainant is very much available in the CCTV footage.

14.No doubt, as rightly pointed out by the learned Counsel for the petitioner, the victim girl has not preferred any complaint, but it is fundamental that anybody can set the criminal law in motion. In the case on hand, the defacto complainant is also an advocate practicing in the same Court and after coming to know about the alleged incident, he preferred a complaint and when no action was taken, he was constrained to approach this Court.

15.It is pertinent to note that on the occurrence day, it is a holiday and as such, the victim staff came to the Court campus to attend turn duty and she was alone present at the occurrence time. It is evident from the records that though the victim staff has not preferred any complaint, but at the enquiry she has specifically stated that the allegations made against the petitioner are true.

16.Considering the seriousness and gravity of the allegations and the charges levelled against the petitioner and the way in which, he had allegedly misbehaved with the Court staff, who was present alone and that too in the Court campus, this Court is constrained to express its displeasure and also considering the facts that the learned Judge of this Court has already directed the Principal District Judge, Ramanathapuram to refer the matter to the Bar Council of Tamil Nadu for initiating disciplinary action against the petitioner and also for registration of F.I.R., and also the fact that the incident was allegedly occurred on 13.04.2021 and that the petitioner is not having any previous case for similar offence as stated by the learned Government Advocate (Crl.Side) and taking note of the fact that the custodial interrogation of the petitioner is not at all necessary, this Court is inclined to grant anticipatory bail to the petitioner by imposing certain terms and conditions.

17.Accordingly, the petitioner shall pay a sum of **Rs.25,000/- (Rupees Twenty Five Thousand Only)** to the Madurai Bench of Madras High Court Advocates Welfare Fund [Indian Bank High Court Branch, Madurai, Current Account No.7087208431, IFSC IDIBI000H040] without prejudice to his rights and contentions before the trial Court and produce the receipt/acknowledgment before the learned District Munsif cum Judicial Magistrate, Kamuthi, Ramand District.



18. On production of such receipt/ acknowledgment, 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 District Munsif cum Judicial Magistrate, Kamuthi, Ramand District 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 Magistrate 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 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 10.30a.m., for a period of 30 days and thereafter as and when required for interrogation.

[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]**.

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

sd/-

22/04/2022

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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 DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
KAMUTHI, RAMANATHAPURAM DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.

3 THE SUB INSPECTOR OF POLICE
KAMUTHI POLICE STATION,
RAMAANTHAPURAM DISTRICT.

4 THE OFFICER INCHARGE,
HIGH COURT ADVOCATES WELFARE FUND,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

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

+1 CC to M/s.RIGHT LAW ASSOCIATES, Advocate (SR-3692[I] dated
22/04/2022)

+1 CC to M/s.C.M.ARUMUGAM, Advocate (SR-3786[I] dated 25/04/2022)

ORDER

IN

CRL OP(MD) No.4413 of 2022

Date :22/04/2022

RS/PN/SAR.2 (29.04.2022) 6P-8C