



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Reserved on : 08/03/2022
Pronounced on : 16/03/2022
PRESENT

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The Hon`ble Mr.Justice K.MURALI SHANKAR
CRL OP(MD). No.14635 of 2021

- 1.Ranjith
- 2.Govindarajan
- 3.Rajalakshmi
- 4.Ramya
- 5.Balarajan
- 6.M.Mayavan Raja

... Petitioners/Accused 1 to 6

Vs

State rep.by
The Inspector of Police,
All Women Police Station,
Kumbakonam,
Thanjavur District.
Crime No.19 of 2021.

... Respondent/Complainant

ROSHINI RAVEESHA

... Petitioner/Proposed 2nd Respondent/
Defacto Complainant

For Petitioners : Mr.A.S.Vaigunth,
Advocate.

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

For Intervenor : Mr.S.Arockiasamy.

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

PRAYER :-

For Anticipatory Bail in Crime No. 19 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners/accused, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 498(A), 342, 294(b), 506(1), 354(A) and 509 IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, in Cr.No.19 of 2021, seek anticipatory bail.



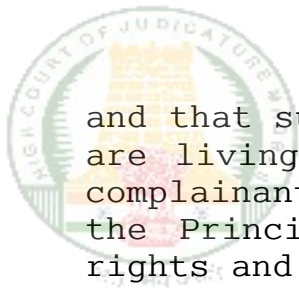
2. Admittedly, the second petitioner is the father, third petitioner is the mother and the fourth petitioner is the sister of the first petitioner and the fifth petitioner is the husband of fourth petitioner and sixth petitioner is the brother of the second petitioner.

3. According to the learned counsel for the petitioners, the fourth and fifth petitioners are residing at Mayiladudurai, that the sixth petitioner is residing at Sakkottai, Kumbakonam and that they have nothing to do with the incidents alleged by the *defacto* complainant in her matrimonial home.

4. The case of the prosecution is that the *defacto* complainant's family gave twenty sovereigns of gold jewels to the bride and five sovereigns of gold jewels and two wheeler worth about Rs.2.2 Lakhs for the bridegroom and household articles, that there arose misunderstanding between them, that the petitioners demanded additional dowry of 50 sovereigns of jewels and a sum of Rs.25 lakhs, that the petitioners from the date of marriage have been torturing her physically and mentally and emotionally by demanding more dowry, that the complainant's father-in-law had abused her and exploited with sexual desire and they have not even permitting her to answer nature calls and that subsequently, they have sent the complainant out of matrimonial home with intention of extracting more dowry. Hence, the complaint.

5. The petitioners' case is that right from the date of marriage, the *defacto* complainant is having usual habit of staying in her parental home, that the *defacto* complainant without satisfying her husband in their family life has always been quarrelling with him for silly things, that on 04.06.2021, the *defacto* complainant along with her neighbors and relatives came to the first petitioner's house and assaulted the petitioners 1 and 3, and for that incident, FIR came to be registered in Crime No.759 of 2021 on the file of the Kumbakonam West Police Station, that thereafter, the *defacto* complainant made a complaint before the respondent Police and the same was forwarded to the Social Welfare Officer, Thanjavur, that the petitioners have appeared before the Social Welfare Officer and explained their innocence, that the *defacto* complainant suppressing the above facts has *preferred* a complaint under Section 156(3) Cr.P.C before the learned Judicial Magistrate, Kumbakonam and as per the orders of the learned Judicial Magistrate, Kumbakonam, FIR came to be registered, that the petitioners are innocents and they have not committed any offence as alleged in the FIR and that the *defacto* complainant has lodged the above complaint with an intention to tarnish the image of the petitioners' family.

6. It is not in dispute that the marriage between the *defacto* complainant and the first petitioner was solemnized on 03.11.2019



and that subsequently, there arose misunderstanding between them and are living separately. It is also not in dispute that the *defacto* complainant has filed a petition in H.M.O.P.No.129 of 2021 before the Principal Sub Court, Kumbakonam, for restitution of conjugal rights and the same is pending.

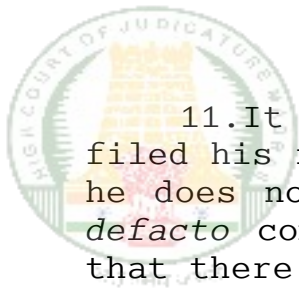
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7.The petitioners have also filed the copy of the FIR registered in Crime No.759 of 2021, dated 05.06.2021 and wherein, it is evident that the first petitioner has given a complaint against the *defacto* complainant, her mother and other relatives alleging that they have trespassed into the house of the first petitioner and assaulted the first petitioner and her mother and also caused criminal intimidation.

8.It is also not in dispute that the *defacto* complainant and other accused in Crime No.759 of 2021, have filed a petition in Crl.OP(MD)No.9254 of 2021, for quashing the FIR and also another petition in Crl.OP(MD)No.14511 of 2021 to transfer the investigation and that the said petitions are pending.

9.The learned counsel for the intervenor would submit that during the mediation proceedings held as per the directions of this Court, the first petitioner refused to live with the *defacto* complainant and also refused to give back all the gold and diamond jewels and that since they have been harassing her physically and mentally continuously, she was forced to file the above complaint. He would further submit that though the complaint was lodged on 06.06.2021, due to influence of second petitioner, no action was taken by the respondent Police and hence, the complainant was constrained to approach the jurisdictional Magistrate Court under Section 156(3) Cr.P.C and that the learned Magistrate, after scrutinizing the complaint passed an order dated 13.09.2021 and only on that basis, the present FIR came to be registered.

10.When the matter was taken up on 29.09.2021, this Court on considering the nature of the offence and relationship of parties and to find out the possibility of settlement between them referred the matter before the Social Welfare Committee and directed the petitioners and the *defacto* complainant to appear before the respondent Police, who in turn referred the matter to the Social Welfare Committee of the concerned District and also directed the Social Welfare Officer to file a report and also granted interim protection to the petitioners. Thereafter, when the matter was taken up on 28.10.2021, the learned Judge of this Court appointed an Advocate Mr.B.Prahalad Ravi as a Mediator and the Registry was directed to place the matter before the Mediation Centre and also directed the parties to appear before the Mediation. Thereafter, it was brought to the notice of this Court that the petitioners did not appear before the Mediator because of the serious illness of the second petitioner and this Court directed the first petitioner and the *defacto* complainant to appear before the Mediation.



11.It is evident from the records that the learned Mediator has filed his report stating that the first petitioner has informed that he does not want to live with the *defacto* complainant, though the *defacto* complainant expressed her willingness to live with him and that there was no possibility for compromise between them.

12.When the matter was taken up on 01.02.2022, the learned counsel for the petitioner submitted that since the *defacto* complainant has demanded separate residence away from the father-in-law, the first accused refused to live with the *defacto* complainant and only because of that dispute, the matter could not be settled.

13.It is also not in dispute that the Social Welfare Officer, Thanjavur has also submitted a report dated 08.11.2021, wherein she has stated that the *defacto* complainant has not appeared for the hearings and hence, she could not proceed with the enquiry.

14.No doubt, in the complaint, the *defacto* complainant has stated that the father-in-law, who is the father of the first petitioner used to talk with her in double meaning often and also he misbehaved with her on 30.06.2020 by threatening her to bring dowry and placing his hand on her.

15.As rightly pointed out by the learned counsel for the petitioners, the *defacto* complainant has not preferred complaint for the alleged sexual misconducts committed by the second petitioner.

16.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.

17.In the case on hand also, the *defacto* complainant except, the second accused, has only made general omnibus allegations against the relatives of the first petitioner. As rightly contended by the learned counsel for the petitioners, it is not even the case of the complainant that after the alleged misconducts of the second accused, he has informed the same to her parents or to the Police.



18. Moreover, it is evident from the records that only on the basis of the orders passed by the jurisdictional Magistrate in the petition filed under Section 156(3) Cr.P.C, the above FIR came to be registered.

19. Considering the above facts and circumstances and also the seriousness and gravity of the offence alleged against the husband, the first petitioner herein, this Court is not inclined to grant anticipatory bail to the first petitioner at this point of time.

20. Accordingly, the Criminal Original Petition is dismissed in respect of the first petitioner concerned.

21. But at the same time, considering the nature of the charges levelled against the petitioners 2 to 6 and taking note of the observations made by the Hon'ble Supreme Court in the above judgment, this Court is inclined to grant anticipatory bail to the petitioners 2 to 6, but with certain conditions.

22. Accordingly, the petitioners 2 to 6 are ordered to be released on bail in the event of arrest or on their 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, Kumbakonam on condition that the petitioners 2 to 6 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 conditions that:

a) the petitioners 2 to 6 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, 5 and 6 shall report before the respondent police daily at 10.30 am for a period of one month, and thereafter, as and when required for interrogation.

(c) the petitioners 3 and 4 shall report before the respondent police as and when required for interrogation.

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

(e) the petitioners shall not abscond either during investigation or trial;

(f) 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 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;



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

23.In the result, the Criminal Original Petition is partly allowed.

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

das

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,
KUMBAKONAM.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.
- 3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, KUMBAKONAM,
THANJAVUR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.14635 of 2021
Date :18/03/2022

SS/SBN/SAR:IV/21.03.2022 : 6P/5C