



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
RESERVED ON : 31/03/2022
PRONOUNCED ON : 07/04/2022
PRESENT

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The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . Nos.15323 and 15466 of 2021

Jeyanthi ... Petitioner/Accused No.2
in Crl.O.P. (MD)No.15323 of 2021

Subiramanian ... Petitioner/Accused No.1
in Crl.O.P. (MD)No.15466 of 2021

Vs

1. The State represented by
The Inspector of Police,
All Women Police Station,
Ramanathapuram District.
(Crime No.19/2021). ... Respondent/Complainant
in both petitions
2. Bavithra ... 2nd Respondent/Defacto Complainant
in both petitions

(R2 Suo Motu Impleaded as Per order
of this Court Dated 10.12.2021 in CRL
OP(MD) Nos.15323 & 15466 of 2021)

IN BOTH THE PETITIONS:

For Petitioner : M/s.Karthick Raja.V,
Advocate.

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

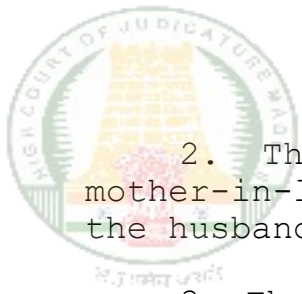
For Intervenor : Mr.T.Veerakumar
Advocate

PETITIONS 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.

COMMON ORDER : The Court made the following order :-

The petitioners/accused Nos.2 and 1, who apprehend arrest at
the hands of the respondent police for the offences punishable under
Sections 498(A) and 506(i) I.P.C., in Cr.No.19 of 2021, seek
anticipatory bail.



2. The petitioner in CrI.O.P.(MD)No.15323 of 2021 is the mother-in-law and the petitioner in CrI.O.P.(MD)No.15466 of 2021 is the husband of the defacto complainant.

3. The case of the prosecution is that the defacto complainant was subjected to cruelty by demanding dowry and in furtherance of the same, she was expelled from matrimonial home, that the defacto complainant and her mother were criminally intimidated and assaulted on 07.06.2021, that on the pretext of registering a house in the defacto complainant's name, the accused had retained the defacto complainant's jewels of 13 sovereigns and pledged the same, that when the said jewels were demanded, they have harassed the defacto complainant and that thereafter they have executed a sale deed in respect of the said house in favour of the third accused.

4. The petitioners' case is that the first accused and the defacto complainant were in love and got married against the wishes of both side parents, that since the petitioner and the defacto complainant were not able to manage their day-to-day expenses and upon seeing their pathetic condition, the first accused family had rendered financial assistance and also directed them to live in the first floor of that house, that they have also conducted reception function by spending around Rs.2,00,000/-, that the defacto complainant and the first accused were blessed with a male child, that when the defacto complainant became pregnant, her parents also accepted her and began to talk with her and that subsequently, the defacto complainant started to dance to the tune of her parents and acting upon their ill-advice, started to show hatred towards the first accused and her in-laws and quarrelled with them, that since the petitioners's family faced severe financial crisis, they have decided to sell their house attached with sentiment in favour of the third accused and that the defacto complainant, with a view to grab the said house, has preferred the above complaint falsely alleging that her jewels were retained by the petitioners's family.

5. When the matter was taken up on 07.10.2021, this Court, considering the nature of the offences and relationship of the parties and to find out the possibility of any settlement between them, referred the matter to the District Social Welfare Committee and granted interim protection to the petitioners, that since a report of the Social Welfare Officer has not been received for a long time, this Court suo motu impleaded the defacto complainant as second respondent and referred the matter to mediation. Subsequently, the mediation report has been received stating that the mediation ended in failure.

6. When the matter was taken up for enquiry, the learned Government Advocate (CrI.Side) has produced a copy of the report submitted by the Social Welfare Officer, Ramanathapuram wherein she has stated that after marriage, some of the jewels of the defacto



complainant were pledged by her husband's family, but both parties have not produced any particulars regarding quantum of jewels, which were allegedly pledged.

7. The learned Counsel for the petitioners would submit that the property in dispute was owned by the father of the first petitioner and that since the first petitioner's family faced severe financial crisis due to the outstanding debts at that time, they were forced to sell the property in favour of the third accused. He would further submit that it is not the case of the defacto complainant that her jewels were sold or pledged and only with that amount, the property came to be purchased and that since the petitioners' family were not in a position to give that property to the defacto complainant, she has lodged the above complaint falsely alleging that her jewels were retained and she was subjected to cruelty.

8. As rightly pointed out by the learned Counsel for the petitioners, the main allegation is that all the accused had conspired together and had purposely executed a sale deed in favour of the third accused only to cheat her. As rightly contended by the learned Counsel for the petitioners, the defacto complainant has raised general and omnibus allegations.

9. The Hon'ble Supreme Court in ***Kahkashan Kausar @ Sonam and others Vs. State of Bihar and others***, reported in **2022 (2) BLJ 75** [CrI.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.

10. Considering the facts and circumstances of the case and also the nature of charges levelled against the petitioners and that the petitioners are not having any bad antecedents, this Court is inclined to grant anticipatory bail to the petitioners, but with certain conditions.

11. Accordingly, the petitioners 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 Judge, Additional Mahila Court, Ramachandrapuram, 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:

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(a) the petitioners 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 petitioner in Crl.O.P.(MD)No.15466 of 2021 shall report before the respondent police daily at 10.30a.m., for period of one month and thereafter as and when required for interrogation and the petitioner in Crl.O.P.(MD)No.15323 of 2021 shall report before the respondent police as and when required for interrogation;

(c) the petitioners shall not tamper with 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 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.

sd/-

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

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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 JUDGE,
ADDITIONAL MAHILA COURT, RAMANATHAPURAM.

2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, RAMANATHAPURAM DISTRICT.

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

+1. CC to M/S. KARTHICK RAJA.V Advocate SR.No.3106

ORDER

IN

CRL OP (MD) . Nos.15323

and 15466 of 2021

Date :07/04/2022

SS/SVR/SAR:I/12.04.2022 : 5P/5C