



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Reserved on : 09.03.2022
Pronounced on : 17.03.2022
PRESENT

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The Hon`ble Mr.Justice K.MURALI SHANKAR
CRL OP(MD) . No.19438 of 2021

1.Suryaraj
2.Santhanam
3.Anbu Selvi
4.Keerthika

: Petitioners/A1 to A4

Vs

State rep.by
The Inspector of Police,
All Women Police Station,
Sivagangai,
Sivagangai District.
(Cr.No.34/2021).

: Respondent/Complainant

For Petitioners : Mr.T.Sugadev,
Advocate.

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

For Intervenor : M/s.G.K.Chitradevi, Advocate

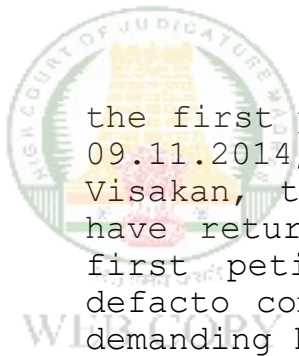
PRAYER :-

For Anticipatory Bail in Crime No. 34 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/Accused, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 498(A), 294(b), 323 and 506(i) IPC and Section 4 of TNPHW Act 2002, in Crime No. 34 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that on 11.09.2013 the marriage between the first petitioner and the defacto complainant was solemnized, that the defacto complainant's family gave 150 sovereigns of gold jewels and silver and house hold articles worth about Rs.3 lakhs, 50 sovereigns of jewels for bridegroom and cash of Rs.3 lakhs at the time of marriage, that since the first petitioner was working in America, the defacto complainant had accompanied with



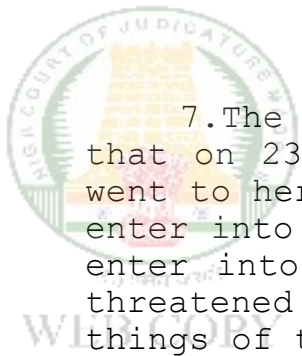
the first petitioner to America and they were living there, that on 09.11.2014, the defacto complainant gave birth to a male child Visakan, that since the first petitioner got job in Chennai, they have returned to Chennai, that in the month of January 2020 the first petitioner went to China for work, that thereafter, the defacto complainant has been harassed by her in-laws day by day by demanding huge amount as dowry, that they did not permit her to stay in their house, that on 22.10.2020, she gave birth to the second male child, that though the defacto complainant had made several attempts for re-union with the first petitioner, the same were ended in vain and that the first petitioner at the instigation of other petitioners had been harassing the defacto complainant physically and mentally by demanding additional dowry. Hence, the complaint.

3.Admittedly, the first petitioner is the husband of the defacto complainant and the petitioners 2 and 3 are the parents and fourth petitioner is the sister of the first petitioner.

4.It is also not in dispute that the third petitioner/mother-in-law of the defacto complainant has filed a petition in Crl.OP(MD) No.8698 of 2021, seeking directions to the Police Officials not to harass the petitioner and her family members under the guise of enquiry based on the representation dated 29.06.2021 given by the petitioner therein and wherein considering the submissions made by the third petitioner as well as the defacto complainant, the matter was referred to Mediation for resolving the issue.

5.The first petitioner's case is that all the allegations levelled by the defacto complainant against the petitioners are false and the defacto complainant, by suppressing several facts, has filed the above complaint falsely implicating the petitioners, that the defacto complainant has lodged several complaints before the police against the petitioners as her father was an influenced person, that the first petitioner has already filed a petition in H.M.O.P.No.1115 of 2021 for divorce before the Family Court and that after the receipt of Court summons, the defacto complainant in a hurry burry manner has lodged the above complaint.

6.The learned counsel for the petitioners would submit that the defacto complainant during enquiry at the Police Station gave a specific statement that all the jewels are with her and that the same was recorded before the All Women Police Station, Thallakulam, that 24 sovereigns of gold jewels belonging to the first petitioner is now available with the defacto complainant, that the defacto complainant used to assault the first petitioner and the third petitioner and she had attacked them many times, that the first petitioner and her mother had lodged complaint before the Police and that the earlier complaint lodged by the defacto complainant after enquiry by the Social Welfare Department, was ordered to be closed.



7.The learned counsel for the defacto complainant would submit that on 23.12.2020 at about 08.00 pm, when the defacto complainant went to her home along with her two children, she was not allowed to enter into the house by the petitioners, that while she attempted to enter into the house, she was attacked by all the petitioners and threatened with dire consequences, that the petitioners had thrown things of the defacto complainant and her children and never allowed her to enter into the house and that therefore, the defacto complainant was forced to lodge the complaint. He would further submit that during that enquiry, the third accused filed a petition in Crl.OP(MD)No.8698 of 2021, seeking orders not to arrest them and this Court has referred the matter for Mediation.

8.It is not in dispute that the first petitioner/first accused has filed the petition in H.M.O.P.No.1115 of 2021, seeking divorce on the ground of cruelty against the defacto complainant and that the same is pending on the file of the Family Court, Madurai.

9.It is evident from the records that considering the nature of the dispute and the relationship between the parties, this Court has earlier referred the matter to Mediation and when the matter was taken up on 20.12.2021, the defacto complainant side submitted that because of conduct of the second petitioner, the Mediation process could not be completed and at that time, the learned counsel for the petitioners submitted that only because of the intervention of the father of the defacto complainant, the trouble arose between them and this Court by recording the above submissions, has directed the first petitioner and the defacto complainant to appear before the Mediator and also directed other petitioners to be away from the Mediation process. But the mediation report has been received stating that the mediation ended in failure.

10.The learned counsel for the petitioners, in their typed set of papers, has produced the copy of summons issued by the Social Welfare Officer, copy of CSR, copy of summons issued by the respondent, copy of closure report, copy of the private notice sent to the defacto complainant and copies of the complaint made by the defacto complainant and copy of the statement given by the petitioner. The learned counsel for the petitioners has also produced the additional typed set of papers producing the statements given by the defacto complainant before the Police Authorities.

11.On considering the above records, it is clearly evident that the defacto complainant had lodged some complaints against the petitioners and that the petitioners 1 and 3 have also lodged complaints against the defacto complainant.

12.The learned counsel for the petitioners would submit that the defacto complainant had forcibly entered into the house of the petitioners and attacked the petitioners 1 and 3 and had taken away the Lap-top of the first petitioner, Cheque Book, Original



13.The learned counsel for the intervenor would submit that the petitioners had refused to allow the defacto complainant to enter into the house and that they had thrown away the articles of the defacto complainant and that she has produced some photographs in support of the same.

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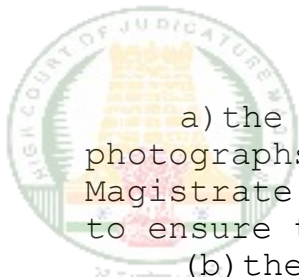
14.The learned counsel for the petitioners would submit that the defacto complainant in her statement before the Thallakulam Police Station, has specifically admitted that she had taken tenth, twelveth, B.Tech Certificates and the Certificates of her children and also some cloths for her son and books on 18.10.2021.

15.At this juncture, it is necessary to refer the decision of 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 and that 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.

16.It is evident from the records that the defacto complainant and the petitioners have been making allegations against each other. As rightly contended by the learned counsel for the petitioners, the defacto complainant has only raised general and omnibus allegations against the petitioners herein and even as against the first petitioner-husband, she has not raised any serious allegations, except making general allegations.

17.Considering the facts and circumstances of the case and also taking note of the general and omnibus allegations levelled by the defacto complainant and that the petitioners are not having any bad antecedents, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

18.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 Additional Mahila Court, Sivagangai, 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 conditions that:



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 petitioners 1 and 2 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 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]***; and;

(g)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.

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 ADDITIONAL MAHILA JUDGE,
SIVAGANGAI.
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, SIVAGANGAI,
SIVAGANGAI DISTRICT
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.19438 of 2021

Date :17/03/2022

SS/SVR/SAR:II/01.04.2022 : 5P/4C