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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on : 18.02.2022

Pronounced On : 23.02.2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP (MD) . No.20695 of 2021

C.David Athisayam ... Petitioner/Accused A4

Vs.

State rep.by
The Inspector of Police,
Cyber Crime Police Station,
Thoothukudi.
(Crime No.34 of 2021)

... Respondent/Complainant

Shanthini Devasahayam

... Petitioner/3rd Party/
De-facto Complainant
(in Crl.MP (MD) No.589/2022)

For Petitioner : M/s.K.Balamurugan, Advocate

For Respondent : M/s.M.Muthu Manikkam,
Government Advocate (Criminal Side)

For Intervenor : M/s.K.Subbu Ranga Bharathi, Advocate

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

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 apprehends arrest at the hands of the respondent police for the offences punishable under Sections 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, 354 A(1) (iv) of IPC and 67 of Information Technology Act, 2000, in Crime No.34 of 2021 on the file of the respondent police, seeks anticipatory bail.



2.The case of the prosecution is that at the instigation of the A1 and A2, on 18.11.2021 at about 10.26 PM, the third accused has posted a video speech in his Face Book Account by name Nixon Samraj and made some obnoxious and false accusations and that the petitioner at the instigation of the other three accused is said to have been posted some obnoxious contents criticizing the bishop and the defacto complainant's modesty with an intention to disrepute and humiliate them. Hence, the complaint.

3.The case of the petitioner is that he is the correspondent of Nazareth Trust Association Primary School and also the Pastorate Chairman, that due to election dispute a false complaint was lodged, that the mobile of the petitioner was hacked right from 26.11.2021 and he had received a warning from Face Book at 08.20 pm, that some one had misused the Face Book Account of the petitioner without his knowledge, that the petitioner neither had any motive nor had any intention to make such comments against the defacto complainant and her husband.

4.Heard the learned counsel for the petitioner, learned counsel for the intervenor and the learned Government Advocate (Criminal Side) appearing for the State.

5.Admittedly, the husband of the defacto complainant is the Archbishop of C.S.I, Tuticorin Nazereth Diocese and that the defacto complainant is the President of Diocesan Women's Fellowship and also a member of the Diocesan General Assembly .

6.It is also not in dispute that the petitioner, who is the fourth accused, is the Priest under C.S.I Tuticorin Nazareth Diocese and he is the correspondent of Nazareth Trust Association Primary School.

7.The learned counsel for the intervenor would submit that the petitioner had posted cooked up story that the petitioner was in illicit relationship with Clergy Secretary Moses Jebaraj and she had been in illicit relationship with a man in Vickramasingapuram for several days and Pitchaimuthu Sir had brought back the intervenor through police.

8.The learned counsel for the intervenor would submit that the accused 1 to 4 who have been working against the intervenor and her husband, have conspired and maliciously, insulted, slandered, abused, intimidated and gave life threatenings to the intervenor and her husband.

9.The learned counsel for the petitioner, at enquiry, would submit that the petitioner's mobile phone had been misused by the A2 and A3 and he was not having any knowledge about the same and that he had no intention to make such comments or remarks against the defacto complainant and her husband.



10.The learned Government Advocate (Criminal Side) appearing for the respondent police would submit that the petitioner alone had posted the messages and he cannot allowed to say that someone had misused his mobile phone.

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11.As rightly pointed out by the learned counsel for the intervenor though the petitioner has alleged in his petition that his mobile phone was hacked right from 26.11.2021 and he has received a warning from Face Book at 08.20 pm, he has not stated anything about the steps, he had taken to restrain the persons from misusing his Face Book Account.

12.As rightly contended by the learned Government Advocate (Criminal Side), the petitioner being a Chairman and also the Correspondent of a School, such misconduct is not expected from him.

13.Considering the seriousness and gravity of the offence alleged and also the fact that the investigation is pending, this Court is not inclined to grant anticipatory bail to the petitioner at this point of time.

14.Accordingly, the Criminal Original Petition is dismissed.

Sd/-

23/02/2022

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

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 INSPECTOR OF POLICE,
CYBER CRIME POLICE STATION,
THOOTHUKUDI.

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

+1. CC to M/S.J.KINGSLY SOLOMON, Advocate SR.No.1530

ORDER

IN

CRL OP(MD) No.20695 of 2021

Date :23/02/2022