



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2022

PRESENT

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P (MD) No.22274 of 2022

WEB COPY

Bharathirajan

...Petitioner /Sole Accused

-vs-

The State represented by
The Inspector of Police,
K.K.Nagar Police Station,
Trichy District.
(in Cr.No.1156 of 2022)

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioner on bail in the event of his arrest by the respondent Police with respect to Cr.No.1156 of 2022.

For Petitioner : Mr.M.Mohamed Riyaz, Advocate

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl.side)

O R D E R

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Sections 294(b), 406, 420 and 506(ii) IPC in Crime No.1156 of 2022 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, Anandha Laxmi, is that she has got 2400 sq.ft of land at Vedhachalam Street, K.K.Nagar, Trichy and she had entered into an agreement with the accused for construction of a house with 1674 sq.ft, in the ground floor and 1380 sq.ft., in the first floor to the rate of Rs.71,17,475/-. During the course of construction, the de-facto complainant had totally paid a sum of Rs.46,00,000/- on various occasions by online transactions, whereas, the accused had not done proper construction. Since the accused did not continue with the construction, the de-facto complainant had questioned him and he did not give a proper reply and thereafter, the de-facto complainant had given a complaint before the K.K.Nagar Police Station, based on that, they had conducted an enquiry and the matter was referred to an independent Engineer and as per his report, the accused had spent Rs.46,00,000/- for doing construction and he had cheated the



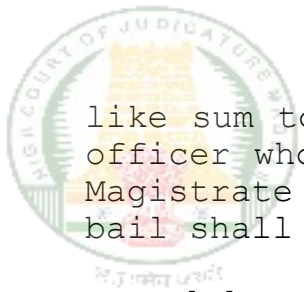
de-facto complainant. While so, on 29.05.2022, when the complainant had gone to the construction site, the petitioner had abused her in filthy language and also attempted to assault her and threatened her and her family members. Hence, the complaint.

3.The learned Counsel for the petitioner would submit that the petitioner is an innocent and a false complaint has been given. He would also submit that the case of a civil dispute has been falsely projected, as a case of criminal nature. He would submit that it is true that the petitioner had entered into an agreement of construction with the de-facto complainant and the rate was fixed as Rs.71,17,475/- and the petitioner had completed almost 70% of the construction, and that he has spent more than Rs.50,00,000/-, whereas, the de-facto complainant, as on date, has given only Rs.46,00,000/-. Meanwhile, due to inflation, the value of the materials have also risen up and thereby, the petitioner has asked the de-facto complainant to give further amount, whereas, the de-facto complainant had reused to give further amount and thereby, the petitioner was constrained to stop the further construction. In the meanwhile, the de-facto complainant and her relatives attempted to pressurize the petitioner through Police and ask to complete the construction and there was a dispute and that the matter was referred to an independent Engineer, one Er.P.Dinakaran, who is a registered Engineer and Approved Valuer and he has also conducted an inspection and he has given a report, as to the present stage and the value of building is fixed as Rs.47,33,000/- and that the petitioner has not cheated the de-facto complainant. He would further submit that even taking into consideration the entire allegations to be true, the ingredients of offence under cheating and misappropriation will not arise.

4.The learned Government Advocate (Crl.side) would submit that the petitioner is an Engineer. He had induced the de-facto complainant on the promise of constructing a building for Rs.71,00,000/- and he has so far received Rs.46,00,000/- from the de-facto complainant and had only partially constructed the building and left in between. When it was questioned by the de-facto complainant, the petitioner had abused her and her family members.

5.Heard the learned Counsel. Taking into consideration the facts and submissions and on perusing the materials available on record including the F.I.R., and the legal notice and the report given by the approved Valuer, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6.Accordingly, 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 on which the order copy made ready, before the learned Judicial Magistrate No.II, Trichirapalli, on condition that the petitioner shall execute a bond for a sum of Rs.10,00,000/- (Rupees Ten Thousand only) with two sureties each for a



like sum to the satisfaction of the respondent police or the officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition 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 Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter, every Saturday at 10.30 am until further orders.

[c] the petitioner shall not tamper with 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 229A IPC.

sd/-

16/12/2022

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

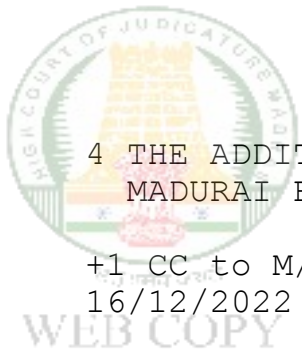
cmr

TO

1.THE JUDICIAL MAGISTRATE NO.II, TRICHIRAPALLI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHIRAPALLI.

3.THE INSPECTOR OF POLICE,
K.K.NAGAR POLICE STATION,
TRICHY DISTRICT.



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

+1 CC to M/s..MOHAMED RIYAZ.M, Advocate (SR-15020[I] dated
16/12/2022)

ORDER

IN

CRL OP(MD) No.22274 of 2022

Date :16/12/2022

RK/VR/SAR-1 (27/12/2022) 4P/6C