



Crl.O.P.No.11544 of 2023

Crl.O.P.No.11544 of 2023
and
Crl.M.P.No.7366 of 2023

A.D.JAGADISH CHANDIRA, J.,

The petitioners, who apprehend arrest at the hands of the respondent/ Police for the offences punishable under Sections 420, 376, 370, 312, 109 of IPC in Crime No. 9 of 2023, seeks anticipatory bail.

2. The case of the prosecution as per the de-facto complainant Madumitha is that she is presently working as a Car Loan Officer in the Regional Office, Bank of Baroda. She got married to one Nesanth on 15.09.2011 and out of their wedlock, she delivered a female child and later, due to some misunderstanding, she was living separately with her child. During 2014, the de-facto complainant had joined in Race Bank Coaching Institute, T. Nagar and at that time, she developed a relationship with one Raju/first petitioner herein, who was well aware of her earlier marriage and separation from her husband. Later, due to their relationship, the defacto complainant became pregnant and the same was aborted with the consent of the first petitioner. Since, the defacto



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complainant wanted to marry the first petitioner, she got divorce from her husband by an order dated 15.02.2023 in HMOP. No. 5621 of 2022. Meanwhile, she came to know that the first petitioner had married the second petitioner. In such circumstances, when the de-facto complainant asked the first petitioner to marry her, he had refused to marry her and he along with other accused threatened her with dire consequences. Hence the complaint.

3. Learned Senior Counsel for the petitioners submitted that the petitioners 2 to 5 are respectively the wife, the parents and the brother of the first petitioner. He also submitted that the petitioners are innocent persons and they have been falsely implicated in this case. He further submitted that when the first petitioner and the defacto complainant had studied together in Race Institute for bank examination in the year 2014, they got acquainted with each other. He also submitted that the first petitioner and the defacto complainant are matured adults and they have had a consensual relationship. He also submitted that the defacto complainant, by suppressing the fact that she is a married woman, had a



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relationship with the first petitioner and when the first petitioner came to know about the matrimonial life of the defacto complainant, he severed their relationship and only thereafter, he got married to the second petitioner on 12.05.2021. After his marriage, the first petitioner had further drifted apart from the defacto complainant. Meanwhile, the marriage between the defacto complainant and her husband was dissolved. Thereafter, the de-facto complainant had approached the first petitioner and insisted him to marry her, whereas, the first petitioner had refused, since he was married to the second petitioner. Hence, the defacto complainant had started harassing the first petitioner and insisted him to come out of his marriage life with the second petitioner, whereas, the first petitioner does not want to do so. Hence, the defacto complainant has given a false complaint against him, to cause trouble to him and his family members.

4. The learned Government Advocate (Criminal Side) appearing for the respondent submitted that first accused and the defacto complainant got introduced in the year 2014. The first accused, knowing



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well that, the defacto complainant was a married woman, had induced her on false promise of marrying her, had taken her to several places and had sexual intercourse with her, due to which, the defacto complainant became pregnant and the first petitioner had taken the defacto complainant to hospital and aborted her pregnancy. Further the first accused/first petitioner had also suppressed the relationship with the defacto complainant and had married the second accused/second petitioner. When the defacto complainant had questioned the same, the first petitioner along with his family members had abused and assaulted the defacto complainant. Hence, he opposed for grant of anticipatory bail to the petitioners.

5. Mr.V.Balu, learned counsel appearing for the intervenor would submit that the first petitioner, knowing well about the defacto complainant and her past, had compelled and pressurised her to have relationship with him, due to his unnecessary interference in the family, her matrimonial life also got spoiled. He would further submit that due to unnecessary interference of the first petitioner, the husband of the defacto



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complainant got away from her and taking advantage of her loneliness, the accused on false assurance, that he would marry her after she gets divorce from her husband, had forced her to have sexual intercourse, due to which, she became pregnant and on convincing her, to keep up his promise, he had compelled her to abort the pregnancy and during the relationship, the first petitioner had also taken several amounts from her. The defacto complainant had got divorce from her husband and when she had asked the first petitioner to marry her, he had disclosed that he was already married and when it was questioned, the first petitioner and his family members had threatened her with dire consequences. He would further submit that the first petitioner had blamed her in ruthless manner and cheated her. Therefore, he would object for grant of anticipatory bail.

6. In reply, Mr. John Sathiyar, learned Senior Counsel would submit that, admittedly the relationship between the first petitioner and the defacto complainant was a consensual relationship. Initially, the defacto complainant/victim had suppressed the earlier marriage and had a



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consensual relationship with the first petitioner and she continued to be in the relationship and only later, when her immoral relationship came to be known to her husband, she filed H.M.OP. No. 5621 of 2022 and her marriage was dissolved. He would further submit that the long period of relationship from 2014 to 2023 would go to show that it was consensual in nature and the defacto complainant was totally aware of the consequences and now she is harassing the first petitioner and it is also not the case of false assurance or inducement to satisfy his lust.

7. Heard the learned counsel for the petitioners, the Government Advocate (Crl. Side) for the respondent police and the intervening counsel and perused the materials available on records including the FIR.

8. Taking into consideration the facts and circumstances of the case, and all submissions made by the learned counsels and taking note of the fact that the defacto complainant was a married woman, whose marriage was dissolved only on 15.02.2023 and the relationship between



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the defacto complainant and the first accused appears to be consensual in nature, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

9. Accordingly, the petitioners 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 on which the order copy made ready, before the **learned Additional Mahila Judge, Egmore**, on condition that the each of the petitioners shall execute a separate bond for a sum of **Rs.10,000/- (Rupees Ten thousand only)** with two sureties each for a like sum to the satisfaction of the respondent/Police or the police 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 petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;



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

[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] 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, as laid down by the Hon'ble Supreme Court in ***P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]***; and;



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[f] if the petitioners herein thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

8. Accordingly, the Criminal Original Petition stands ordered.

Consequently, connected miscellaneous petition is closed.

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