



Crl.O.P.Nos.21390 & 23084 of 2023

Crl.O.P.Nos.21390 & 23081 of 2023

And

Crl..M.P.No. 15946 of 2023

C.V.KARTHIKEYAN, J.

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The intervening Petition in Crl.M.P.No. 15946 of 2023 is allowed.

2. The petitioner/A-1 has filed Crl.O.P.No. 21390 of 2023 and the petitioner/A-2 has filed Crl.O.P.No. 23084 of 2023, both in Cr.No. 395 of 2023 registered under Sections 448 and 420 of IPC with respect to an occurrence which took place on 18.02.2022.

3. It is the case of the prosecution that the petitioners and other accused had trespassed into the building of the wife of the defacto complainant at Chinna Kolambakkam and started a business in the name and style of “Hotel Ananda Bhavan” between the accused Nos. 22 and 23 and failed to pay the monthly rent.

4. It is the further case that originally the lessee of the hotel was one Srinivasan, who had handed over possession to the petitioners. This was actually a sublease of the hotel premises and this subletting was not recognised by the defacto complainant or by the owner of the land, namely, the wife of the defacto complainant. At any rate, issues relating to lease and subletting are subject matters of the lease deed and if there are no clauses in the lease deed to that extent the issues have to be adjudicated before a civil forum. The issue which had forced the defacto complainant to lodge a complaint is the payment of arrears of rent and



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the electricity charges. Since the electricity charges had not been paid, the electricity connection naturally been severed. There is also a claim made by the petitioners with respect to arrears of rent. With respect to the electricity charges, it is quite fairly stated by the learned counsel on behalf of the petitioners that the petitioners have a liability to pay the electricity charges in accordance with the rates calculated by the Electricity Department and subject to the provisions of law governing the same. It is also undertaken that the said electricity charges will be paid by the petitioners herein to the Electricity Department.

5. It is the further case of the prosecution that as on date, the building had been demolished and there is only vacant land available. However, if the defacto complainant harbours any intention to put up any further construction they need to have electricity connection and that would not be possible unless dues are paid.

6. The learned Government Advocate (Crl. Side) pointed out that none of the accused could be taken in to custody and that there are huge amounts of rent due and that the building had also been locked by the petitioners and the electricity charges also had not been paid leading to arrears running into several lakhs. It is contended that therefore, not only was the subletting a direct issue of cheating the defacto complainant but non payment of the lease amount also amounted to cheating the defacto complainant.



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7. The learned counsel for the petitioners also stated that the petitioners should also be reserved a right to institute appropriate proceedings for any loss which they suffer as against the defacto complainant. This Court cannot grant any such liberty but nobody can be prevented from instituting a suit provided there is cause of action and the said claim is not barred by any law.

8. Taking all the factors into consideration, particularly the undertaking that the electricity dues will be paid, 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 Judicial Magistrate No.I, Chengalpet, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each 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 this Court 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 may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioners shall appear before the respondent police daily



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at 10.30 a.m., until further orders.

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[c] Additionally, the petitioners are directed to pay the electricity dues as raised by the electricity department on or before 12.01.2024 directly to the electricity department. If the payment is not effected, then either the defacto complainant or the respondents will have right to file applications seeking cancellation of their order.

[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]**.

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

vsg

13.12.2023
(2/2)

C.V.KARTHIKEYAN, J.



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