



Crl.O.P.No.22139 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2023

CORAM

THE HON'BLE MR. JUSTICE **C.V.KARTHIKEYAN**

Crl.OP.No.22139 of 2023

1. B.S.Rajkumar

2. B.K.Sugumaran ...Petitioners / Accused 1 & 2

Vs.

1. State rep. by
Inspector of Police
W-23, Royapettah All Women Police Station
Chennai – 600 005.
(Crime No. 03 of 2023)

... Respondent/Complainant

2. M.S.Vishnupriya

... Respondent/Defacto Complainant

PRAYER:Criminal Original Petition is filed under Section 482 of Cr.P.C. praying to set aside the order dated 07.09.2023 in Crl.M.P.No. 17935 of 2023 on the file of Hon'ble Principal Session Judge, Chennai.



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For Petitioners : Mr. John Sathyan
Senior Counsel
for Mr.A.M.Ilango

For 1st Respondent : Mr. S.Vinoth Raja
Government Advocate, Crl. Side

For 2nd Respondent : Mr.S.Sadasharam

ORDER

This Petition had been filed seeking to interfere and set aside the order dated 07.09.2023 in Crl.M.P.No. 17935 of 2023 in Crime No. 3 of 2023 registered by the third respondent / the Inspector of Police, W-23, All Women Police Station, Royapettah, Chennai, in Crl.M.P.No. 17935 of 2023, for offences under Sections 498-A, 294(b) and 506(ii) of IPC.

2. It must be stated that much earlier, in Crl.M.P.No. 14190 of 2023, the petitioners herein had been granted anticipatory bail by the learned Principal Sessions Judge. There were various conditions imposed and complaining that the said conditions had not been complied with, the



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defacto complainant had filed an application in Crl.M.P.No. 17935 of 2023 again before the learned Principal Sessions Judge at Chennai, to cancel the order granting anticipatory bail. By an order dated 07.09.2023, the anticipatory bail stood cancelled.

3. Questioning that particular order and seeking to set aside the said order, the present Criminal Original Petition in Crl.O.P.No. 22139 of 2023 had been filed by the petitioners herein, who are arrayed as accused Nos. 1 & 2 in the aforementioned Crime No. 3 of 2023. The defacto complainant is the second respondent herein. The investigating agency has been arrayed as the first respondent.

4. Heard Mr.R.John Sathyan, learned Senior Counsel appearing for the petitioners, Mr.R.Vinoth Raja, learned Government Advocate (Crl. Side) appearing for the first respondent and Mr.S.Sadasharam, learned counsel appearing for the second respondent/defacto complainant.



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5. This is an issue in which this Court should not enter into a deep discussion since, as between the first petitioner herein and the second respondent, D.V.C.No. 51 of 2023 is now pending before the Metropolitan Magistrate Additional Mahila Court, Egmore at Chennai. The said Court is invested with the jurisdiction to examine the right to possess and the terms of possession of the respective places of residences of the petitioners and the second respondent.

6. It must also be pointed out that the second respondent /defacto complainant is residing in the ground floor and the first and second petitioners herein, who are her husband and father-in-law are residing in the first floor. Both the first petitioner and the second respondent are also blessed with children. It is only natural that the children will be moving up and down the floor and visiting the mother, father and also grandfather. They may be climbing up from the ground floor to the first floor and also run down to the ground floor from the first floor. When that happens, it is also only natural, that atleast the second petitioner/grandfather would follow the children, if they want him to accompany them. There are extremely minor issues and merely going



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over to the ground floor by either one of the two petitioners would not imply that it is an attempt of dispossess the second respondent. That imputation would be stretching the issues too far.

7. Be that as it may, the first respondent / husband of the defacto complainant had filed an affidavit that he would never go to the ground floor where his wife / second respondent is residing. His affidavit is as follows:-

“I, B.S.Rajkumar, S/o. B.K.Sugumaran, aged about 41 years, residing at No.77/10, Irusappan 2nd Lane, Ice House, Triplicanr, Chennai – 600 005, do hereby solemnly affirmed sincerely state as follows:

1) The 2nd petitioner is the absolute owner of house, ground and premises, ground floor and first floor at No.77/10, Irusappan 2nd Lane, Ice House, Triplicane, Chennai – 600 005, which is self acquired property of the 2nd petitioner.



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2) I file this affidavit as per the direction of the Hon'ble High Court, Chennai, order dated 12.10.2023. I will not take possession the ground floor which is in possession of 2nd respondent/defacto complainant and I will not interfere with the possession subject to outcome of the Shared House holding petition filed by the 2nd respondent in D.V.C.No. 51 of 2023 pending before Metropolitan Magistrate Additional Mahila Court, Egmore, Chennai. The children can go over to the ground floor as and when required for the presence of the 2nd respondent/defacto complainant. The grand parents will also have occasion to enter the ground floor.

3) I crave leave of this Hon'ble Court that it may consider to pass any or other such order that may not have a bearing on the petition filed by the 2nd respondent for share house holding petition in D.V.C.No. 51 of 2023 pending before Metropolitan Magistrate



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Additional Mahila Court, Egmore, Chennai.”

8. Mr.S.Sadasharam, learned counsel appearing for the second respondent expressed satisfaction at the terms stated in the affidavit. I am confident the learned counsel would be able to convey his impression to the defacto complainant. This would put an end to the controversy and the ground on which the anticipatory bail stood cancelled namely, that the petitioners herein had held out threats of dispossession against the second respondent naturally evaporates.

9. In view of the fact that threats have now diluted and have vapoured into thin air, the impugned order, or rather the order complained of passed by the learned Principal Sessions Judge is set aside and the order granting anticipatory bail is restored with the same conditions thereto. This affidavit, is an undertaking given by the petitioners. I am confident that they would take care, for their own safety, and exercising prudence, to comply with the undertaking given thereto. This would not strictly apply to the second petitioner/grandfather who as stated, might have the necessity to go over to the ground floor if



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the grand children wants him accompany them. No Court can deny the companionship of a grandfather for the grand children.

10. The learned counsel for the defacto complainant also complained that the electricity connections have been cut by the petitioners herein. That fact may not be a continuous grievance entertained by the second respondent. It is stated that if electricity supply is cut for the ground floor, it will also affect the electricity supply in the first floor and there cannot be any sense attributed in cutting of electricity supply. The role of the petitioners cannot also be impliedly recognised as being responsible for the cutting of the electricity supply. There could be various reasons for the cut in power supply and if it is cut, they should be the first persons to inform the Electricity Department seeking to the electricity supply.

11. These are all aspects which prudence if adhered to, can resolve the issues. I am confident that the first petitioner and the second respondent, whatever may the difference between them would still



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attempt to resolve the minor issues between them. No further orders are required.

12. The order of the learned Principal Sessions Judge, Chennai in CrI.M.P.No. 17935 of 2023 dated 07.09.2023 is set aside and the anticipatory bail granted is restored. Accordingly, this Criminal Original Petition stands allowed.

Vsg

07.11.2023

To

1. The Principal Sessions Judge, Chennai.
2. Inspector of Police
W-23, Royapettah All Women Police Station
Chennai – 600 005.
3. The Public Prosecutor,
High Court of Madras.



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C.V.KARTHIKEYAN, J.

vsg

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