BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 24/03/2023
PRESENT
The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN
CRL OP(MD). No.4927 of 2023

1. Thillairaj

2. Thangaraj

3. T.Harishraj ... Petitioners/Accused Nos.1,2&4

Vs

1.The State rep.by,
The Inspector of Police,
District Crime Branch,
Madurai.
(Crime No.04/2023). ... Respondent/Complainant

2.M.Veerakumar ...Intervener Petitioner/
Defacto Complainant
in CRL MP(MD)No.4768 of 2023

For Petitioner : Mr.V.Karthick
Senior Counsel
for Mr.Poornachandran
Advocate.

For Respondent : Mr.R.M.Anbunithi,
Additional Public Prosecutor

For Intervenor : Mr.K.Suyambulinga Bharathi, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.04/2023 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners/A1, A2 & A4, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 406, 420 and 506(i) of I.P.C., in Crime No.04 of 2023 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the de-facto complainant is running a company namely VIN Enterprises, which is dealing with the old scarp business. The first petitioner is a Managing Director of a Company namely Tower Steals, which is also dealing with the scrap business. The de-facto complainant approached the first petitioner to purchase a large quantity of old scraps from his company. In turn, the first petitioner also agreed for the same and the amount of sale was fixed as Rs.4 crores. The de-facto complainant paid a sum of Rs.50,50,000/- towards the agreed amount as advance. Thereafter, on 15.09.2022, the de-facto complainant had gone to the company of the first petitioner to take out the scraps. But the third petitioner did not permit him by saying that his father/A1 was not in station and asked him to come on another day. However, the de-facto complainant while contacted the first petitioner to permit him to take out the scraps, the first petitioner demanded one crore extra from the agreed amount and also criminally threatened. Hence, the case.

3.Heard. Perused the materials available on record including the First Information Report.

4.The learned Senior Counsel apparing for the petitioners would submit that it is a business transaction between the petitioners and the de-facto complainant. As per the oral agreement between the petitioners and the de-facto complainant, the de-facto complainant agreed to purchase the scrap materials from the petitioners and payid Rs.50,50,000/- as an advance. Due to escalation price of scrap materials, there was a dispute between the de-facto complainant and the petitioners herein. In fact, the petitioners caused notice to the representative of one M/s Vin Enterprises, offering to sell six scraps for some schedule of payment. Even after receipt of the same, the de-facto complainant did not come forward to purchase the scrap materials. Thereafter, one Ganapathy Subramanian, Deesons Traders also filed a suit as against the said Vin Enteriprises and its pending on the file of the Principal District Munsif Court, Madurai. He would further submit that he offered to deposit 25% of alleged amount, which was received from the de-facto complainant, to show their *bona fides,* to the credit of crime number.

5.Per contra, the learned counsel for the de-facto complainant would submit that admittedly, the de-facto complainant entered into an agreement to purchase the scrap materials from the petitioners for the total sale consideration of Rs.4 crores and paid a sum of Rs.50,50,000/- as an advance. Thereafter, the petitioners refused to sell the scrap materials, since they demanded Rs.6 crores for the scrap materials. Immediately, the de-facto complainant declined to purchase the scrap materials and asked for return of advance amount. However, the petitioners failed to return the amount and refused to settle the scrap materials. He also pointed out that the legal notice was not issued to the de-facto complainant. They themselves set up a person one Mr.Kanagaraj represented by one M/s.Vin

Enterprises and the same was also returned without serving the notice. However, the de-facto complainant is no way connected with the said person and the petitioners themselves set up a person and issued notice. He also pointed out that the suit filed by one Ganapathy Subramanian, Deesons Traders in O.S.No.79 of 2023 seeking for permanent injunction restraining the defendants, namely, the Vin Enterprises cleverly cheated the petitioners and also threatened the petitioners along with some rowdy elements and also trying to grab more money. It shows nothing but to project the entire allegations are civil in nature.

6.The learned Additional Public Prosecutor would submit that the petitioners cleverly cheated not only the de-facto complainant and others, since they received so much amounts from various Districts across Tamil Nadu even at Chennai. Insofar as the present complaint, they received a sum of Rs.50,50,000/- in order to sell the scrap materials from the de-facto complainant. After receipt of the same, they refused to sell the scrap and also demanded Rs.6 crores from the de-facto complainant. It is a *modus operanti* of the petitioners receiving so many crores from various persons and refused to settle any scrap sofar.

7.Heard. Perused the materials available on record including the First Information Report.

8.Admittedly, the petitioners received a sum of Rs.50,50,000/- as an advance for the total sale consideration for Rs.4 crores in order to sell the scrap in favour of the de-facto complainant. However, on the very next day, the petitioners demanded Rs.6 crores in order to sell the scrap in favour of the de-facto complainant. Therefore, the de-facto complainant expressed his willingness not to purchase the scrap and asked for return of advance amount, which was already paid by them for the past six months. That apart, they also issued notice to one person called Kanagaraj, as if, he represented on behalf of one Vin Enterprises.

9.On perusal of the said notice, it is seen that they had given some schedule and offered to sell the scrap in favour of the said Kanagaraj. However, no amount was issued to the de-facto complainant. That apart, they also filed a suit in order to give color for the entire transaction as civil in nature. It is also understand that the prayer sought for the said suit in O.S.No.79 of 2003 on the file of the Principal District Munsif Court, Madurai is follows:-

"...a)for permanent injunction restraining the defendants cleverly cheated the plaintiff and also threatened the plaintiff along with some rowdy elements and also trying to grab more money from the plaintiff except under process of law.

b)directing the defendant to pay Cost of this suit and.

10.This Court never heard such a prayer and thus it is *modus operandi* of the petitioners only to cheat the de-facto complainant. That apart the petitioners also received huge amount from the other customers from sending the scrap and failed to supply the scrap sofar. Therefore, the custodial interrogation of he petitioners is very much required in this case. Hence, this Court is not inclined to grant anticipatory bail to the petitioners.

11.Accordingly, this petition stands dismissed.

sd/-
24/03/2023

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/04/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

1.THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
MADURAI.

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

+1 CC to M/s.K.VIGNESH KUMAR, Advocate (SR-4830[I] dated 24/03/2023)

ORDER
IN
CRL OP(MD) No.4927 of 2023
Date :24/03/2023

RK/BUC/SAR-4(06/04/2023) 4P/4C