



Crl.OP(MD)No.14580 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 27/09/2023

CORAM

The Hon'ble Mr.Justice G.ILANGO VAN

Crl.OP(MD)No.14580 of 2023

1.Mr.A.Irfan Mubeen
2.Mr.Asaraf Ali
3.Mrs.Majeetha Begum

...Petitioners/ Accused Rank not known
Vs.

State rep. by
The Inspector of Police,
All Women Police Station (Rural),
Tirunelveli District.

(**)(Crime No.11 of 2023) ... R1/Complainant
(**)(Amended as per order of the court dated
04/09/2023 in Crl MP(MD)No. 12390 OF 2023 IN
Crl OP(MD)No. 14580 OF 2023)

(*)2.Abiyabanu ...R2/De-facto Complainant
(*) (R2 is suo muto impleaded
as per the order of this court,
Dated 10/08/2023 made in
Crl.MP(MD)No.12390 of 2023
in Crl.OP(MD)No.14580 of 2023)

For Petitioners : M/s.K.Vidya,Advocate

For Respondent : Mr.R.Suresh Kumar
Government Advocate(Criminal Side)

For Intervenor : Mr.C.Susi Kumar,Advocate



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

PRAYER:-For Anticipatory Bail in Crime No.11 of 2023 on the file of the Respondent Police.

ORDER: The Court made the following order:-

The petitioners, who are arrayed as A1 to A3 apprehend arrest at the hands of the respondent police for the offences punishable under sections 498(A), 294(b), 406, 323, 506(ii) IPC r/w 120 IPC and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 and section 4 of Dowry Prohibition Act, 1961, in Crime No.11 of 2023 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution in brief:-

A1 and the de-facto complainant are husband and wife. Their marriage was performed, on 01/09/2019. After marriage, they were living as husband and wife in the matrimonial home. Right from the marriage, the husband used to insult and abuse the wife stating that she is dark in complexion. They also demanded additional amount of Rs.15,00,000/- and 30 sovereigns of gold jewels. A2 and A3 were also joined with A1. She was also even assaulted. In the course of time, she became pregnant. But ill-treatment and demanded of dowry did not stop. She delivered a child. Even in the hospital, the accused persons picked up quarrel. On 05/07/2022 along with her parents, she was driven out of the matrimonial home by keeping the

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child. The complaint given before the Jamath also did not yield any result. Now they are saying that they are going to arrange second marriage to A1 with some other girl. The complaint given by her was not properly enquired by the police. With the above said allegations, she preferred a complaint under section 156(3) Cr.P.C before the Magistrate Court. As per the order of the Judicial Magistrate No.3, Tirunelveli, in Crl.MP No.16851 of 2023, the case was registered in Crime No.11 of 2023 for the offences stated above.

3. Seeking anticipatory bail, this petition has been filed by all the accused persons.

4. During the course of hearing, for exploring possibility of settlement, the de-facto complainant was suo motu impleaded as 2nd respondent and referred the matter to the Medication and Conciliation Centre, attached to this Bench. But no settlement could be arrived between the parties. So, the matter was referred back to the Court.

5. Heard both sides. The de-facto complainant also represented by Advocate.

6. Now the learned counsel appearing for the de-facto complainant would submit that the de-facto complainant is ready to live with A1, but the gold jewels in the hands of A1 must be returned to her and then only there will be a possibility for re-union.



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7.The de-facto complainant gave a complaint before Jamath, on 07/07/2022, wherein she stated that A1 in financial difficulty was under mental stress and because of that, frequent trouble arose between them. So, it is seen that in-spite of repeated panchayat, there was no peaceful living. On a particular day, when her parents came to the house for seeing the child, A1 abused and she was driven out of the house. But in the complaint, she has stated nothing about the demand of dowry, jewels, etc. Chinnamanur Haji has also written a letter to the Naina Mohammed Jamath narrating the issue between the parties.

8.Reading of the above said shows that a petty domestic issue has been given unnecessary impact.

9.The main grievance of the de-facto complainant is that she was not provided with sufficient money for maintaining the family.

10.The counter allegation on the part of the first petitioner/A1 is that the issue has been instigated by the parents of the de-facto complainant. She only voluntarily left the matrimonial home along with her parents. He has narrated the dates and events. The de-facto complainant compelled A1 to come down to Thalaiyuthu by arranging a house. Even before the Police Station, A1 has given statement that he is always ready and willing to live with the de-facto complainant. The de-facto complainant is also willing to come to the matrimonial home. So, it appears that only



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after the police enquiry, the present complaint has been given under section 156(3) Cr.P.C. They are having a child. At least, for the future of the child, the de-facto complainant should have made a compromise with A1. But for what reason, she is avoiding is not clear on record. On 31/04/2023, the de-facto complainant's Advocate sent a legal notice to A1 making the very same allegation. Apart from that he has also stated that her sreedhana articles and jewels must be restored to her, A1 must come down to Thalaiyuthu and arrange a separate house, etc., for which, A1 has sent a reply notice stating that no such jewels are available with them.

11. Reading of the above said notice would also indicate the amount received for their separate living, which is a petty issue.

12. In view of the above said, I find no reason to reject the anticipatory bail. Of course, there shall be a direction to the first petitioner/ A1 to pay Rs.10,000/- for the maintenance of the de-facto complainant and the children starting from the month of September-2023. The amount must be paid on or before 5th of every month without fail.

13. In view of the above facts and circumstances of the case, this court is inclined to grant anticipatory bail to the petitioners with certain conditions. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned Judicial Magistrate No.III, Tirunelveli and on each of



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them executing a 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 learned Judicial Magistrate concerned and on further condition that the petitioners shall appear before the respondent police daily at 10.30 am until further orders. The petitioners shall comply with the condition stipulated under [Section 438](#) Cr.P.C. scrupulously. The petitioners shall appear before the concerned Magistrate within a period of 15 days from the date on which the order is made ready, failing which, the petition for anticipatory bail will stand dismissed.

sd/-
27/09/2023

/ TRUE COPY /

/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

ER
TO

- 1 THE JUDICIAL MAGISTRATE NO.III
TIRUNELVELI.
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
- 3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,(RURAL)
THIRUNELVELI DISTRICT.



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

+1 CC to M/s.M.SENTHIL KUMAR, Advocate (SR-14322[I] dated 27/09/2023)

ORDER
IN
CRL OP(MD) No.14580 of 2023
Date :27/09/2023

PKP/DD/SAR- /11.10.2023/ 7P/ 6C

Madurai Bench of Madras High Court is issuing certified
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