



Crl.O.P.No.1055 of 2024

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C.V.KARTHIKEYAN, J.

The petitioner/first accused who apprehends arrest at the hands of the respondent police for the offence punishable under Sections 417 of IPC read with Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 in Crime No.5 of 2023, seeks anticipatory bail.

2. It is stated that there are totally six accused. A learned Single Judge of this Court had granted stay of further investigation as against the accused Nos. 2 to 6 but specifically stay has not been granted so far as this petitioner is concerned.

3. It is the case of the prosecution that the brother of the defacto complainant was married to the sister of this petitioner. Thereafter, it is the specific case that this petitioner and the defacto complainant, were in relationship for quite a number of years. It is also stated that there was a proposal of marriage. It is also stated that believing his words, she had also surrendered her bank passbook to him



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and that he was running the bank account of the defacto complainant. It is also stated that a loan of Rs.9,00,000/- had been obtained on the instance of this petitioner. It is also stated that there are WhatsApp message exchanged between the parties and photographs have also been produced.

4. Learned counsel for the petitioner stated that there are no allegations in the First Information Report relating to the bank statement but documents have been produced before this Court relating to the same.

5. The learned counsel for the petitioner stated that the allegations, even if accepted, do not show that there has been a promise to marry. The issue of promise and how it is understood, is a matter which would vary in degree between any two persons. The learned counsel for the petitioner stated that prior to this alleged promise, there had been no physical relationship between the petitioner and the defacto complainant. There need not be physical relationship for a promise to be given.



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6. It is only a belief between the parties and which is as understood by the parties. If the petitioner had led the defacto complainant to believe that he would at some point of time enter into a marital relationship with her, and if that promise is broken or if he is to act contrary to such an undertaking given by him, then every right is vested with the defacto complainant to take recourse to the provision of law on the ground that there was a promise to marry and breach of the same. Each case differs on its own facts and will have to move forward on the basis of the evidence adduced during the course of trial.

7. The issue is whether anticipatory bail can be granted or not has to be examined on the touch stone of the nature of the allegations, the relationship between the parties and the manner in which the victim was led to believe that there was a promise to marry her.



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8. Before this Court, photographs have been produced and messages exchanged through WhatsApp have been produced. The bank statements had been produced. These are all aspects which will have to be tested during the course of trial.

9. The learned counsel for the petitioner stated that a counter complaint had also been given. That does not make the case of the petitioner any better.

10. The learned counsel also placed reliance on the order of the Hon'ble Supreme Court in ***Crl.A.No. 577 of 2024 [Raju Krishna Shedbalkar Vs. The State of Karnataka and another]*** and drew specific reference to the following paragraph:-

“8. We do not see how an offence even under Section 147 of IPC is made out against the present appellant. There can be multiple reasons for initiating a marriage proposal and then the proposal not reaching the desired



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end. It may in a given case involve cheating; it is possible theoretically yet in order to prove an offence of cheating in such cases prosecution must have reliable and trustworthy evidence in order to first prosecute such a case. There is no such evidence before the prosecution and therefore no offence under Section 417 is also made out. Consequently, we allow the appeal and set aside the order of the Trial Court to the extent it has refrained from quashing the proceedings under Section 417 IPC against the present appellant. The petition succeeds, the appeal is allowed to the extend stated above.”

11. The facts in that particular case are that the defacto complainant therein, an M.Tech graduate was working as Lecturer and thereafter, had come across the appellant and they talked to each other on phone but the marriage never took place. She came to the know that the appellant had married somebody else. Thereafter, FIR was registered against six persons under Sections 406, 420, 417 read with 34 of IPC. A



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learned Single Judge of the High Court had come to the conclusion that no offence under Section 406 or under Section 420 had been made out. Thereafter, the Division Bench had however come to the conclusion that an offence under Section 417 had been made out but not against the other accused but only against the appellant. On those facts, the Hon'ble Supreme Court come to a conclusion that the offence under Section 417 had not been made out.

12. The facts in each case differ and it had also been affirmed by the Hon'ble Supreme Court in the aforementioned paragraph where they had stated as follows:-

“It may in a given case involve cheating; it is possible theoretically yet in order to prove an offence of cheating in such cases prosecution must have reliable and trustworthy evidence in order to first prosecute such a case.”



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13. The documents and other materials produced by the defacto complainant will have to be examined by the respondent. The petitioner will have to be brought in for interrogation. That can be done only the petitioner is secured. I am not inclined to grant anticipatory bail to the petitioner. This Petition stands dismissed.

20.03.2024

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