



CRL.O.P.No.3285 of 2024

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T.V.THAMILSELVI,J.

The petitioners, who apprehend arrest for the alleged offence under Sections 294(b), 506(ii) of IPC in Crime No.09 of 2024, seeks anticipatory bail.

2. The case of the prosecution is that due to dispute in respect of title and right over the subject property, the petitioners forced and tortured one Giriraj/defacto complainant to vacate the premises, when the same was refused, they attacked the defacto complainant, abused him in a filthy language and also threatened him with dire consequences. It is alleged in the FIR that defacto complainant got married to a widow lady one Santhi and out of the said wedlock, a son named Kiran Kumar was born. The 1st petitioner was born out of the wedlock of said Santhi and her first husband one Babu. While being so, the said Santhi died intestate on 11.05.2021. Thereafter, in the year 2022, the 1st petitioner along with his relatives and 15 other henchmen trespassed into the house of defacto complainant and attacked him to vacate the premises. Hence, FIR has been filed against them. Thereafter, he preferred complaint under Maintenance and Welfare of Senior



Citizens Act, 2007 to the Revenue Divisional Officer and the same was ordered on 16.11.2023 in his favour. But the 1st petitioner failed to comply with the order. Hence, defacto complainant was staying in the car shed of the subject property. On 16.01.2024, the petitioners attacked the defacto complainant by pouring water in the car shed and also threatened him to vacate the premises. Hence, the complaint.

3. The learned Counsel for the petitioners would submit that 1st petitioner is the foster son of one Giriraj/defacto complainant. The 2nd petitioner is the wife of 1st petitioner and 3rd petitioner is the father-in-law of 1st petitioner. He would submit that there is dispute between the 1st petitioner and defacto complainant in respect of title and right over the house property. In order to harass the petitioners, the defacto complainant lodged a complaint with false allegations. He would also submit that in the year 2022, he gave a false complaint as if 1st petitioner and his relatives attacked him. Based on which, FIR was filed, subsequently, another complaint was preferred by the defacto complainant before the RDO under the provisions of Maintenance and Welfare of Senior Citizens Act, 2007 and obtained order in his favour. He would also submit that they are innocent persons and they



have not committed any offence as alleged by the prosecution. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Government Advocate (Crl.side) for the respondent police would submit that petitioners trespassed into the house of defacto complainant, attacked him, abused him in a filthy language and also threatened him with dire consequences. Hence, he opposed for grant of anticipatory bail to the petitioner.

5. This Court considered the rival submissions made by learned counsels on either side and perused the materials available on record.

6. On perusal of the typed set of papers, it would suggest that the defacto complainant was employed as supervisor in State Transport Department in the year 2008. While so, he married one Santhi, who was already divorced and out of the wedlock, a son named Kiran Kumar was born to them. The defacto complainant stated that in the course of his employment and out of his own self earned funds, he purchased the vacant site in the year 1997 in the name of his wife and put up construction.



Thereafter, he has been residing in the said house along with his wife Santhi and both sons Kishore Kumar and Kiran Kumar. Subsequently, after the marriage, Kishore Kumar shifted his residence and stayed with his family at Thirupathur. On 11.05.2021, his wife Santhi died due to covid-19. Thereafter, the defacto complainant continued to reside in the present house. Since the property stands in the name of said Santhi, the 1st petitioner, who was born through 1st husband, causing disturbance to the defacto complainant, who is the original owner of the property. Hence, at this old age, he approached the RDO and obtained an order in his favour through which 1st petitioner was directed not to cause any interference. Even thereafter, 1st petitioner prevented the defacto complainant, hence, he approached this Court and obtained the order in respect of the RDO order but again, he caused interference, hence the present complaint has been lodged. Further, the defacto complainant submits that at this age of 73 years, he is suffering from heart ailments and for the same, he is taking treatment from the hospital, but he was tortured by petitioners and hence, he raised objection to grant anticipatory bail.



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7. The learned counsel for the Intervenor also pointed out that already suit in O.S.No.4676 of 2021 was filed before the V Assistant City Civil Court, Chennai to declare his right and for permanent injunction and 1st petitioner also appeared and the same was pending.

8. At this juncture, the learned counsel for the petitioners submits that 1st petitioner is also residing in the house property and he is entitled to 1/3rd share in the suit property. Therefore, he cannot be prevented by defacto complainant through any interim order.

9. By way of reply, the learned counsel for the intervenor raised strong objection stating that 1st petitioner is not residing in the subject property. After marriage, he shifted his residence to Tirupathur, Vellore. The petitioners denied the said fact and contended that he is residing in the suit property in dispute.



10. On seeing the cause title in the civil suit, the 1st petitioner is residing at Tirupathur, Jolarpet, Vellore and the summon was also served on that address and he also appeared. Further, there is no proof that 1st petitioner along with his wife is residing in the house property where the defacto complainant is residing. Therefore, the objection made by the 1st petitioner is unwarranted. Furthermore, the defacto complainant relied the order passed by the RDO on 16.11.2023 filed under Maintenance and Welfare of Senior Citizens Act, 2007 where enquiry was conducted and made an observation that after the demise of the said Santhi, the 1st petitioner failed to maintain the defacto complainant. Furthermore, as a husband, the defacto complainant is entitled to reside in the house property which belongs to his wife, Santhi and 1st petitioner has no right to cause disturbance. As per the order of the RDO, 1st petitioner was directed not to cause any interference in the house property enjoyed by the defacto complainant. The learned counsel for the intervenor submits that even he is ready to give 1/3rd share in the suit property, but the same has not been accepted by the 1st petitioner, on the other hand, he is claiming the entire portion of the suit property. When the civil suit is already pending before the Trial Court, this Court is not inclined to interfere with the suit. This Court, vide order dated



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29.01.2024 in Crl.O.P.No.28848 of 2023, directed the 1st petitioner to comply with the order passed by the RDO dated 16.11.2023 till that order is alive and directed the defacto complainant to comply with the undertaking given before this Court and observed that the defacto complainant alone will be permitted to reside in the subject property and no other person will be allowed. Despite the defacto complainant was permitted to reside in the subject property, the 1st petitioner is causing interference which clearly shows that 1st petitioner is a person who never comply with any of the order including the order passed by this Court. Since the 2nd and 3rd petitioners are also assisted 1st petitioner in causing interference to the defacto complainant, this Court is not inclined to grant anticipatory bail to them.

11. In the light of the observations made above, this Court is not inclined to grant anticipatory bail to the petitioners. Accordingly, this Criminal Original Petition is dismissed.

12.04.2024

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