



CRL.O.P.No.4835 of 2024

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T.V.THAMILSELVI,J.

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The petitioners, who apprehend arrest for the alleged offence under Sections 294(b), 323, 324 and 506(ii) of IPC in Crime No.36 of 2024, seek anticipatory bail.

2. The case of the prosecution is that due to dispute in respect of title and right over the house property, the petitioners along with one Kishore Kumar/A1, foster son of defacto complainant, 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 and the same was closed as civil in nature. 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 accused failed to comply with the order. It is alleged in the FIR that on 14.02.2024, the petitioners along with A1 threatened the defacto complainant's care taker not to give food to him and also abused her in a filthy language, when the same was questioned by the defacto complainant, they also abused and threatened him to vacate the premises. Hence, the complaint.

3. The learned Counsel for the petitioners would submit that petitioners are relatives of one Kishore Kumar, who is the foster son of defacto complainant. He would submit that there is dispute between the 1st accused 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 accused and his relatives attacked him. Based on which, FIR was filed and the same was closed as civil in nature, 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. The defacto complainant was employed as supervisor in State Transport Department and attained superannuation in the 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 accused, 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 accused was directed not to cause any interference. Even thereafter, 1st accused prevented the defacto complainant, hence, he approached this Court and obtained the order in respect of the RDO order but again, the petitioners along with A1 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 to them.



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 accused also appeared and the same was pending.

8. At this juncture, the learned counsel for the petitioners submits that 1st accused 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. By way of reply, the learned counsel for the intervenor raised strong objection stating that 1st accused is not residing in the subject property. After marriage, he shifted his residence to Tirupathur, Vellore.

9. Considering the facts and circumstances of the case, considering the gravity of the offence and considering the fact that already, an order has been passed by RDO and the 1st accused was directed not to cause any interference in the house property enjoyed by the defacto complainant and also considering the fact that despite the defacto complainant was permitted to reside in the subject property, the 1st accused and the petitioners are causing interference to the defacto complainant, this Court is not inclined to grant anticipatory bail to the petitioners.



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10. 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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