

# Seth Daniraj Basinger vs State Rep. By on 27 August, 2024

**Author: B.Pugalendhi**

**Bench: B.Pugalendhi**

Crl.OP(MD)Nos.1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.OP(MD)Nos.11014, 11016 of 2024  
and  
Crl.MP(MD)Nos.7819, 7823 of 2024

Seth Daniraj Basinger : Petitioner in both OPs

Vs.

State Rep. by  
The Inspector of Police,  
Tallakulam Police Station,  
Madurai. : Respondent in both OPs

COMMON PRAYER: Petition filed under Section 482 BNSS seeking  
anticipatory bail in connection with the cases in Crime Nos.601 & 603 of  
2024 on the file of the respondent police.

For Petitioner : Mr.Mathew Moses

For Respondent : Mr.B.Thanga Aravindh  
Government Advocate

For Intervenor : Mr.Henri Tiphagne

[In both OPs]

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Crl.OP(MD)Nos

COMMON ORDER

The petitioner is the first accused in Crime Nos.601 & 603 of 2024 on the file of the respondent Police. The case in Crime No.601 of 2024 was registered for the offence u/s.120(b), 294(b), 355, 354(A), 509, 506(i) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act and Section 66(B), 66(E) of IT Act; and the case in Crime No.603 of 2024 was registered for the offence u/s.120(b), 341, 294(b), 506(i) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act. The petitioner is apprehending arrest in these cases and has filed these applications seeking anticipatory bail.

2.These are the second applications filed by the petitioner seeking anticipatory bail. The earlier applications filed by him in Crl.OP(MD)Nos. 8016, 8051 of 2024 were dismissed by this Court on 19.06.2024, considering the seriousness of allegations made as against the petitioner and the report of the Internal Complaints Committee constituted under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 [hereinafter referred to as 'the Act']. <https://www.mhc.tn.gov.in/judis> Crl.OP(MD)Nos.11014, 11016 of 2024

3.Learned Counsel appearing for the petitioner submitted that the District Administration has constituted a separate Internal Complaints Committee and this Committee has also conducted an enquiry and submitted a report before the District Collector. This report would disclose as to whether any sexual harassment has been made in the institution, as projected by the defacto complainant.

4.Mr.Henri Tiphagne, learned Counsel has filed two applications for intervening and submitted that the Internal Complaints Committee constituted by the School Management has already submitted a report and this Court has also taken a decision based on the earlier Committee report. Therefore, there is no necessity to review the earlier order passed by this Court. He further submitted that there is no change in circumstances and therefore, he prayed for dismissing these applications.

5.Learned Government Advocate (Crl. Side) appearing for the respondent Police submitted that the investigation is pending. He neither <https://www.mhc.tn.gov.in/judis> Crl.OP(MD)Nos.11014, 11016 of 2024 oppose the grant of anticipatory bail nor support the petitioner's case for grant of anticipatory bail.

6.This Court considered the rival submissions made on either side and perused the materials placed on record.

7.The petitioner was the Correspondent of an Aided School at Madurai. The defacto complainants in this case are Teachers working in the School. The case of the defacto complainants is that the petitioner / Correspondent of the School, along with the third accused / Headmistress of the School, harassed the defacto complainants, seized their mobile phones, deleted some messages and also threatened them.

8.It appears that the defacto complainant initially lodged the complaint in the month of February, 2024, but the Police did not register the case. Therefore, the defacto complainant and two of her colleagues have lodged a complaint u/s.156(3) CrPC before the learned Judicial Magistrate No.II, Madurai and the learned Magistrate has referred the complaints to <https://www.mhc.tn.gov.in/judis> CrI.OP(MD)Nos.11014, 11016 of 2024 the respondent Police for enquiry. Based on the orders of the Magistrate, the cases were registered on 27.05.2024.

9.Excepting the offence u/s.354(A) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, all other offences are bailable in nature. These offences are also made as against the petitioner / first accused, however, the complaint was lodged as against the wife of the petitioner / second accused and the Headmistress of the School / third accused. Considering the nature of materials as against the other two accused, this Court, by earlier order dated 19.06.2024, granted anticipatory bail to the accused nos.2 & 3 and rejected the relief as against this petitioner / first accused, since this petitioner has not constituted the Internal Complaints Committee as required under the Act in the first place and also considering the report filed by the Internal Complaints Committee constituted by the present Administration of the School.

10.The petitioner was the Correspondent of four Schools, run by an Educational Society. Around 150 Teachers are working in the Schools. It <https://www.mhc.tn.gov.in/judis> CrI.OP(MD)Nos.11014, 11016 of 2024 appears that there is a dispute with regard to the administration of the Society and the Schools. Civil suits are pending between the petitioner and the erstwhile Administrators.

11.The main contention of the petitioner is that this complaint itself has been foisted at the instance of his rival group, in order to remove him from the Administration. Mettilda Jebamani, the defacto complainant, is a close relative of his rival, one Prema, who is agitating the issue with regard to the administration as against the petitioner by filing two suits in O.S.Nos.470 of 2022 and 1026 of 2023.

12.It is the specific case of the petitioner that the defacto complainant's Aunt, Prema, who could not achieve her object in shifting the petitioner from the administration, has achieved the same by utilizing her Niece by lodging this complaint and they have successfully removed him from the administration.

<https://www.mhc.tn.gov.in/judis> CrI.OP(MD)Nos.11014, 11016 of 2024

13.Admittedly, after the registration of these cases, the Administration has been shifted from this petitioner. The petitioner's father one Henry Basinger / the present Administrator has also filed an application, while hearing the earlier applications in CrI.OP(MD)Nos.8016, 8051 of 2024, that the present Administration has constituted an Internal Complaints Committee and this Committee has also submitted a report. This report of the Internal Complaints Committee was also placed before this Court.

14.During the course of hearing in the earlier round of litigation, Mr.Henri Tiphagne, learned Counsel for the defacto complainant, Mettilda Jebamani, has taken a specific stand that there is no Internal Complaints Committee in the School and therefore, he made a representation to the

District Collector, Madurai and the District Collector has also constituted a Committee as per the Act. Considering this submission of the learned Counsel, this Court in the earlier petitions has directed the District Collector to place the Committee's report. However, the same was not <https://www.mhc.tn.gov.in/judis> CrI.OP(MD)Nos.11014, 11016 of 2024 placed before the Court, when the earlier applications were dismissed on 19.06.2024.

15.Now, in these second applications, a representation was made on behalf of the petitioner that the Committee constituted by the District Collector under the Act has submitted its report and that it would be useful to peruse the same. Therefore, this Court directed the learned Government Advocate (CrI. Side) to place the report. It appears that the Internal Complaints Committee constituted by the District Collector on 26.06.2024 has also submitted its report to the Registrar, Madurai Bench of Madras High Court, on 04.07.2024 in Na.Ka.No.217/Aa6/2024. However, even before that, the earlier applications filed by this petitioner were heard and disposed of on 19.06.2024.

16.This Court has now perused the report of the Internal Complaints Committee constituted by the District Collector. The Chief Educational Officer, Madurai; The District Social Welfare Officer, Madurai; The Assistant Commissioner of Police, Prohibition and Enforcement Wing, <https://www.mhc.tn.gov.in/judis> CrI.OP(MD)Nos.11014, 11016 of 2024 Madurai; the Director of Fr. Patrick Issac Home of Hope for Women and Children, Madurai; and Director of a Mahalir Seva Centre are the members of this Internal Complaints Committee constituted by the District Collector. This Committee appears to have conducted an enquiry into the affairs of the School on 04.07.2024 and also submitted a report to the District Collector on the same day.

17.When this Court was about to look into this report, Mr.Henri Tiphagne, learned Counsel for the defacto complainant, has raised some objections for perusing this report, by referring to the orders passed by this Court in WMP(MD)Nos.13375, 13376 of 2024 in WP(MD)No.15255 of 2024, dated 10.07.2024. This writ petition has been filed by Matilda Jebamani as against the orders of the District Collector, dated 02.07.2024, in Na.Ka.No. 3246A/A1/2024, constituting this Internal Complaints Committee under the Act.

18.This Committee appears to have been constituted pursuant to the earlier orders of this Court in CrI.OP(MD)Nos.8014 of 2024, etc., batch, <https://www.mhc.tn.gov.in/judis> CrI.OP(MD)Nos.11014, 11016 of 2024 dated 06.06.2024. This order dated 06.06.2024 was made based on the submissions made by Mr.Henri Tiphagne, learned Counsel for the defacto complainant that on his request, the District Administration has constituted a Committee. Therefore, before taking a decision in the earlier application in CrI.OP(MD)Nos.8016, 8051 of 2024, this Court has suggested the learned Additional Public Prosecutor to place the report of this Committee constituted by the District Collector. From the materials placed before this Court, it appears that no such Committee was constituted prior to 02.07.2024 by the District Collector. However, Mr.Henri Tiphagne has reported before this Court that on his request, the District Administration has constituted a Committee under the Act, headed by the Chief Educational Officer. Strangely, the defacto complainant, who insisted for a Committee to be constituted by the District Collector, has filed a writ petition as against this Committee constituted by the District Administration in WP(MD)No.15255 of 2024. This writ

petition was also filed on 08.07.2024, after the report of this Committee dated 04.07.2024 and an interim order was obtained.

<https://www.mhc.tn.gov.in/judis> Crl.OP(MD)Nos.11014, 11016 of 2024

19.Considering the manner in which the defacto complainant has challenged the Committee constituted by the District Administration on 04.07.2024, this Court is of the view that the allegations made by the petitioner as against the defacto complainant cannot be ruled out and this defacto complainant appears to be having a motive as against this petitioner.

20.The defacto complainant, Mettilda Jebamani, is a close relative of the petitioner's rival group, one Prema and a specific averment was taken by the petitioner in his earlier applications as against her. It was not denied by the defacto complainant. It is also an admitted fact that after the registration of the criminal case in Crime Nos.601 to 603 of 2024, the petitioner has been suspended and another Management has taken charge of the administration of the School. The present administration has constituted a Committee, which has submitted a report before this Court on 08.06.2024, based on which, this Court has taken a decision in the earlier application in Crl.OP(MD)Nos.8016, 8051 of 2024. The report of the Committee constituted by the District Collector consisting of Senior <https://www.mhc.tn.gov.in/judis> Crl.OP(MD)Nos.11014, 11016 of 2024 Officers of the District is contra to the earlier report of the Internal Complaints Committee, which was constituted by the present administration. Moreover, the defacto complainant in Crime Nos.601 to 603 of 2024 were already transferred to the Girls Higher Secondary School at another location.

21.Considering the materials now placed before this Court, this Court is satisfied for grant of anticipatory bail to the petitioner. Accordingly, these petitions are allowed and the petitioner is ordered to be released on bail in the event of arrest or on his appearance within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, on condition that

(i) the petitioner executes a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Madurai;

(ii) the petitioner and the sureties shall submit a copy of their Aadhar Card or any other identity card issued by the Government in proof of their residence address;

<https://www.mhc.tn.gov.in/judis> Crl.OP(MD)Nos.11014, 11016 of 2024

(iii) the petitioner shall appear before the respondent Police daily at 10.30 am, until further orders and has to co-operate for the investigation;

(iv) the petitioner shall not misuse the liberty granted to him by indulging in any further offence and shall not tamper with the prosecution witnesses; and

(v) on violation of any of the above conditions by the petitioner, the respondent Police shall move an application for cancellation of the anticipatory bail.

Internet : Yes  
gk

27.08.2024

To

1.The Judicial Magistrate No.II,  
Madurai.

2.The Inspector of Police,  
Tallakulam Police Station,  
Madurai.

3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

<https://www.mhc.tn.gov.in/judis>

CrI.OP(MD)Nos.11014, 11016 of 2024

B.PUGALENDHI, J.

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CrI.OP(MD)Nos.11014, 11016 of 2024

27.08.2024

<https://www.mhc.tn.gov.in/judis>

