

Crl.O.P.No.15820 of 2015**R.SUBBIAH, J.**

Apprehending arrest at the hands of the respondent-police, in respect of the alleged commission of offences punishable under Sections 420, 423, 465, 471 & 506(ii) IPC, in Crime No.20 of 2015, the petitioner has approached this Court seeking the relief of anticipatory bail under Section 438 of the Code of Criminal Procedure.

2.The complaint was lodged by one Ramalingam. It has been averred in the complaint that the property in Old Survey No.491 initially belonged to one Ayyakannu Nattar and his four sons and on 25.11.1915 they had divided their properties by way of Registered Partition Deed vide Doc.No.2693 of 1915. In the said partition, one Mr.Pachiappa Nattar S/o.Ayyakannu Nattar has been allotted 'A' schedule properties including the property in Villupuram in Old Survey No.491 to an extent of 0.36 cents out of 1.45 cents. Thereafter, the said property devolved upon one Kalathi Nattar and Mannarsamy Nattar, who are the sons of the said Pachiappa Nattar. One Govindan was in possession of the said property as a tenant of the said Kalathi Nattar and Mannarsamy Nattar. The said Kalathi Nattar and Mannarsamy Natter had filed a civil suit in O.S.No.88 of 1966 against their tenant Govindan before the Sub-Court at Cuddalore; but the said suit was

dismissed on 31.10.1970 and a decree was passed in favour of the said Govindan. In the meanwhile, the said Kalathi Nattar and Mannarsamy Nattar had sold 17 cents of land (including the land enjoyed by the tenant Govindan) in favour of one Nagarajan by a Registered Sale Deed vide Document No.857 of 1974 dated 04.07.1974. The said document was written on 15.04.1974, but registered only on 04.07.1974. After the purchase of the land, the said Nagarajan had filed a civil suit in O.S.No.125 of 1984 against the said Govindan before the Sub-Court at Villupuram, praying to declare that the decree passed in O.S.No.88 of 1966 was not binding on him and to set-aside the said decree; subsequently, he obtained an exparte decree in O.S.No.125 of 1984 on 03.02.1987. Based on the said exparte decree, the said Nagarajan had filed an Execution Petition in E.P.No.33 of 1991; but the same was dismissed. In the meantime, the said Govindan died on 09.05.1987. So the said Nagarajan had filed a Civil Revision Petition in C.R.P.No.70 of 1993 against the legal heirs of the said Govindan and obtained an order in his favour. Hence, challenging the order passed in C.R.P.No.70 of 1993, the legal heirs of the said Govindan preferred an Appeal before the Hon'ble Supreme in Civil Appeal No.3686 of 1996, which was dismissed on 16.12.2004 and thereby, the case ended in favour of the said Nagarajan and not in favour of the legal heirs of the said Govindan. Thereafter, the said Nagarajan had filed an Execution Petition

before the District Munsif Court at Cuddalore in E.P.No.262 of 2004 in O.S.No.125 of 1984 and he got possession of the property on 05.01.2005 for the said four cents in Survey No.491/c1 and thus, the matter attained finality. Thereafter, during the year 2012, the Legal Heirs of the said Nagarajan sold the properties in favour of the defacto-complainant and three others by executing sale deeds Vide Doc.Nos.727, 726, 728 and 729 of 2012 in respect of Survey No.491/1c1 to an extent of 0.17 cents. Now, the subject property belongs to the defacto-complainant. While so, the petitioner/accused created forged and fraudulent documents to grab the property of the defacto-complainant. Hence, the present complaint has been lodged.

3.The learned counsel appearing for the petitioner submitted that the petitioner was inducted as a tenant in respect of a portion of the subject property measuring to an extent of 8 x 8 sq.ft and he is running a small time finance business. Further, a small portion of the land lying behind the shop was sold by late Nagarajan in the year 1974 to one late Ponnusamy by way of an unregistered sale deed and possession was handed over to him. Subsequently, in the year 1986, the petitioner purchased the said land from the said Ponnusamy through an unregistered sale deed and he has been in possession of the land lying behind the shop. The petitioner has also paid

necessary charges to the Government and he is in possession of the property for the past 20 years. The problem arose only when the petitioner submitted an application before the Electricity Board for supply of electricity connection; but the said application was rejected by the Electricity Department on the ground that there is an objection by the third party. Now, with the false allegation, the complaint has been lodged as if the petitioner's application was rejected since he had produced some false documents. In this regard, the learned senior counsel appearing for the petitioner has also invited the attention of this Court to the order passed by the Electricity Department and made an elaborate argument. Thus, the learned senior counsel appearing for the petitioner submitted that the matter is purely civil in nature and by giving criminal colour, the present case has been foisted against the petitioner. Thus, he sought for grant of anticipatory bail to the petitioner.

4. Per contra, the learned counsel appearing for the intervener/defacto-complainant submitted that it is absolutely false to state that the matter is purely civil in nature. The sale deed dated 15.07.1986 said to have been executed by one Ponnusamy is a forged document. In fact, the sons of Nagarajan had never executed any sale deed in favour of the said Ponnusamy. Similarly, the petitioner has created another sale deed dated

29.04.1998 as if the said Govindan executed a sale deed in favour of the petitioner herein on 29.04.1998; but the said Govindan had died early as on 09.05.1987 itself. Thus, the learned counsel for the intervener/defacto-complainant opposed to grant anticipatory bail to the petitioner.

5.The learned Government Advocate (Crl.Side) has also opposed the grant of anticipatory bail to the petitioner stating that the preliminary investigation has shown that the petitioner herein has created forged sale deed dated 29.04.1998 said to have been executed by the said Govindan; whereas the said Govindan had died as early as on 09.05.1987 itself. Therefore, it is incorrect to state that the matter is purely civil in nature. Further, the entire issue involved in this case is whether the petitioner has created forged documents or not; the investigation revealed that the petitioner has created forged documents to grab the property. The learned Government Advocate (Crl.Side) would further submit that the petitioner herein/accused had tried to mutate entries in the revenue records with an intention to grab the property. Therefore, custodial interrogation of the petitioner is absolutely necessary in this case. In this regard, the learned Government Advocate (Crl.Side) has also relied upon the judgment reported in **(2012) 9 SCC 235 [Maruthi Nivrutti Navale Vs. State of Maharashtra and another]** wherein it has been held that in the case of

forgery of documents, custodial interrogation of the accused is necessary to secure the forged and fabricated documents.

6.Keeping the submissions made on either side, I have carefully gone through the materials available on record. Though the learned senior counsel for the petitioner stated that the matter is only civil in nature, I find that the main allegation against the petitioner is that he has created three forged documents. Further, the petitioner has created the sale deed dated 29.04.1998 vide Doc.No.1068 of 1998 as if one Govindan has executed the same in favour of the petitioner in respect of a portion of the subject property. But, it is the case of the prosecution that the said Govindan had died as early as on 09.05.1987 itself and the petitioner has created the said sale deed in order to grab the property. Therefore, I am of the opinion that the custodial interrogation of the petitioner is necessary in this case to unearth the real facts. Hence, I am not inclined to grant anticipatory bail to the petitioner and the petition is liable to be dismissed.

In fine, the criminal original petition is dismissed.

07.07.2015

R.SUBBIAH, J.

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Pre-delivery order

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