

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2015

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.21800 of 2015

The State Rep by:
The Inspector of Police,
Central Crime Branch, EDF-III,
Vepery, Chennai.

... Petitioner

Vs.

1.E.Perumal Swamy
2.Leela Devi

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Cr.P.C., praying to call for the records relating to Crl.M.P.No.5716/2015 on the file of the Judicial Magistrate, Alandur, dated 18.08.2015, as confirmed in Crl.R.P.No.14 of 2015 on the file of the Court of the Principal District Judge, Chengalpattu, dated 24.08.2015, set aside the same and grant police custody of the respondents/accused [A1 &A2] for a period of 5 days.

For Petitioner : Mr.S.Shanmugavelayutham
Public Prosecutor

O R D E R

This Criminal Original Petition has been filed praying to call for the records relating to Crl.M.P.No.5716/2015 on the file of the Judicial Magistrate, Alandur, dated 18.08.2015, as confirmed in Crl.R.P.No.14 of 2015 on the file of the Court of the Principal District Judge, Chengalpattu, dated 24.08.2015, set aside the same and grant police custody of the respondents/accused [A1 &A2] for a period of 5 days.

2. Heard Mr.S.Shanmugavelayutham, the learned Public Prosecutor, for the State.

3. It is the case of the prosecution that the accused herein had created a false sale agreement dated 27.04.2006, as if one

Lakshmi Ammal had executed a Power of Attorney in favour of the second accused in respect of properties belonging to the said Lakshmi Ammal. On the complaint lodged by the son of the said Lakshmi Ammal, the respondent Police registered a case in Crime No.98 of 2015 under Section 120(B), 406, 409, 418, 420, 423, 465, 467, 468, 471, 506(ii) IPC.

4. The accused were arrested and they were produced before the learned Judicial Magistrate, Alandur on 13.08.2015 and were remanded to judicial custody. Thereafter, for the purpose of further investigation, the Police filed an application for police custody, which was rejected by the learned Judicial Magistrate, Alandur on 18.08.2015, challenging which, the Police filed Criminal Revision Petition No.14 of 2015 before the Principal District Judge, Chengalpattu, which was also dismissed on 24.08.2015, on the ground that Criminal Revision Petition will not lie against an order refusing police custody. Hence the Police are before this Court, invoking the inherent jurisdiction of this Court. This Court perused the case diary and the reasons given by the Police, seeking police custody.

5. The allegations against the respondents/accused are that they had created documents in the name of a deceased person in order to usurp her properties. The police require custodial interrogation of the accused for the purpose of recovering the bogus documents.

6. This Court finds that the request of the Police ought not to have been rejected by the learned Judicial Magistrate. Though police custody should not be mechanically granted, this Court finds that Police have made-out a case for granting custody. The Police custody should be granted only during first fifteen days of remand. In this case, the accused were produced before the learned Judicial Magistrate on 13.08.2015 and fifteen days period expires on 28.08.2015.

5. Under such circumstances, the order dated 18.08.2015 passed by the learned Judicial Magistrate, Alandur is set aside and Police custody of the accused for two days is granted. The Superintendent of Central Prison, Puzhal, is directed to hand over Perumal Samy (A1) and Leela Devi (A2), accused in Crime No.98 of 2015 to Mr.N.Senthil Kumar, Inspector of Police, EDF III, Central Crime Branch, Vepery, tomorrow (27.08.2015). The accused should not be subjected to any ill-treatment or torture and they should be produced before the learned Judicial Magistrate, Alandur on ***28.08.2015**, before ***5.30 p.m** and thereafter sent to Judicial Custody.

8. With the above direction this Criminal Original Petition is closed.

Sd/-
Assistant Registrar
26.8.2015

*modified as per order
of this Court dated 27.08.2015
made in CrI.O.P.No.21800/15 as
made herein
Sd/-
Assistant Registrar
27.08.2015

True Copy

Sub Assistant Registrar

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To:

- 1.The Judicial Magistrate,
Alandur.
- 2.The Superintendent of Central Prison
Puzhal.
- 3.The Inspector of Police,
Central Crime Branch, EDF-III,
Vepery, Chennai.
- 4.The Principal District Judge, Chengalpattu.
- 5.The Public Prosecutor, High Court, Madras.

to be substituted for
the order despatched
on 26.8.2015

1 cc to Public Prosecutor Sr.No.45309

1 cc to Mr. J.Ravikumar, Advocate Sr.No.45845

CrI.O.P.No.21800 of 2015

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pmk.26.08.2015
pmk.27.08.2015

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