



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Twelfth day of January Two Thousand Fifteen

PRESENT

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The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.13144 of 2014

1 AMINAL BEEVI

2 RUKIYIYAL BEEVI

3 MOHAMED NAWAS

... PETITIONERS / ACCUSED 1, 2 & 4

Vs

THE STATE REP.BY

THE INSPECTOR OF POLICE,

SHENGOTTAI POLICE STATION,

TIRUNELVELI DISTRICT.

CRIME NO.179/2013

... RESPONDENT / COMPLAINANT

[CRIME NO.AMENDED AS PER THE
ORDER OF THIS COURT DT.17.12.14

AND MADE IN MP 1/14 IN CRL.OP

NO.13144/2014]

For Petitioner : M/S.D.VENKATESH Advocate

For Respondent : M/S.A.P.BALASUBRAMANI, Govt. Advocate (Crl.Side)

For Intervener : MR.R.RAJARAMAN, Advocate

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 465, 467, 468, 471 and 420 IPC in Crime No.179 of 2013 on the file of the respondent police, seek anticipatory bail.

2. On 08.01.2015, this Court has passed the following order:

"The case of the prosecution is that the property in question was originally belonged to one Mohammed and the defacto complainant purchased the property from Mohammed through his Power of Attorney Md.Musthafa on 26.03.2010 by a deed of sale registered as document No.488 of 2010 and she was in possession of the property. The first petitioner herein by name Aminoal Beevi was a tenant in the same property. While so, it is alleged by the defacto complainant that



the petitioners herein entered into conspiracy to create encumbrance on the said property and thereby the third petitioner registered a sale deed in favour of the first petitioner on 13.03.2013, knowing fully well that the defacto complainant is the owner of the property.

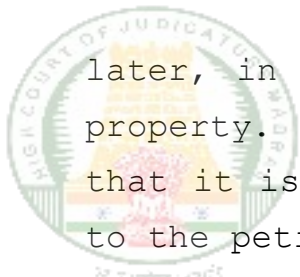
2. The learned Counsel for the petitioners submitted that even prior to the present case, the petitioners have given a complaint to the police which has been registered as Cr.No.152 of 2013 on 24.08.2013. It is seen that the said complaint has been filed only after sale deed dated 13.03.2013. At this juncture the learned Counsel for the petitioner seeks adjournment. Post "for orders" on 12.01.2015."

3. Today, the learned Counsel for the petitioners filed an additional typed set of papers and brought to the notice of this Court that Basheer Ahmed had derived legal title to the property.

4. This Court is unable to accept this because the original owner Mohammed and the power of attorney Md.Musthafa have filed a suit in O.S.No.54 of 2005 before the Additional Subordinate Court, Tenkasi, in which Abdul Lateef, Mahabub Abdul Khadar and Basheer Ahmed have been shown as defendants. Though the suit was filed in the year 2005, the decree in the suit was passed in favour of the plaintiff on 13.11.2009. Therefore, Basheer Ahmed cannot say that he was not aware of the suit being decreed against him. Whiles, Basheer Ahmed has given a power of attorney dated 28.07.2011 infavour of Rukiyyal Beevi, second petitioner herein and armed with the said power of attorney, Rukiyyal Beevi executed a sale deed in favour of her own mother, first petitioner herein on 13.03.2013, nearly two years after.

5. The learned Counsel for the petitioners would submit that Ainal Beevi has filed a petition to set aside the exparte decree passed by the Subordinate Court.

6. The sworn statement of Ainal Beevi in the set aside application cannot obliterate the fact that Basheer Ahmed had given the power of attorney after the suit was decreed against him in favour of Rukiyyal Beevi, second petitioner herein and Rukioiyal Beevi has executed the sale deed in favour of his mother two years



later, in order to create encumbrance on the defacto complainant's property. Under such circumstances, this Court is of the opinion that it is not a fit case to grant the relief of anticipatory bail to the petitioners.

7. Accordingly, this Criminal Original Petition is dismissed.

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12/01/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE JUDICIAL MAGISTRATE, SHENCOTTAI.
 - 2 -DO-THRO' THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI.
 - 3 THE INSPECTOR OF POLICE, SHENGOTTAI POLICE STATION,
TIRUNELVELI DISTRICT.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to M/S.D.VENKATESH, Advocate SR.No.1600.
- +1. CC to M/S.R.RAJARAMAN, Advocate SR.No.1536.

ORDER IN
CRL OP(MD) No.13144 of 2014
Date :12/01/2015

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