



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

Tuesday, the Eleventh day of August Two Thousand Fifteen
PRESENT

The Hon`ble Mr Justice K.KALYANASUNDARAM

CRL OP(MD) No.13682 of 2015

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JEYABALAN

... PETITIONER/ACCUSED No.1

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH / ALGSC,
KANYAKUMARI DIST.
(CRIME NO. 3/2015)

... RESPONDENT/COMPLAINANT

C.MANIKUMAR

... INTERVENOR IN MP(MD)NO.1/15
IN CRL OP(MD)NO.13682/2015

For Petitioner : M/S.S.PALANIVELAYUTHAM Advocate

For Respondent : MRS.S.PRABHA, Govt. Advocate (Crl. Side)

For Intervenor : MR.C.KISHORE, Advocate

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

ORDER : The Court Made the following order :-

The petitioner, who is arrayed as accused No.1, apprehends arrest at the hands of the respondent police for the alleged offence punishable under Sections 120(B) r/w. 420, 465, 467, 468 and 471 of I.P.C., in Crime No.3 of 2015 on the file of the respondent police and hence, seeks anticipatory bail.

2. According to the de-facto complainant, one Srinivasan and Krishnan, S/o. Late Hariharan Iyer were the original owner of the property to the extent of 6 cents in old Survey No.2689 and the new Survey No.C9/46/4 and in the Malayalam Era 1121, on behalf of the de-facto complainant viz., Hindu Sambava Samuthayam, its President Kunchu Madan purchased 1 cent, where temple is situated and one Andi purchased 2 cents and the remaining 3 cents on the northern side was sold to third parties and the said Andi sold his 2 cents in the year 1967 to one Lakshmi and in-turn, Lakshmi has sold the 2 cents to one Chandra in the year 1997. While so, the sons of the said Andi without having any right over the remaining 4 cents in the above survey number, executed a settlement deed in favour of accused 1 and 2 in respect of 1 cent, where the temple is situated and thereby created documents and to grab the property of the de-facto complainant.

3. The learned counsel for the petitioner submitted that originally the land was owned by Srinivasa Iyer and Krishna Iyer and the father of the accused 3 and 4 viz., Andi was in possession and enjoyment of the entire extent of 6 cents and on the basis of possession and enjoyment, the accused 3 and 4 have executed settlement deed in favour of the accused 1 and 2. The learned counsel for the petitioner further



submitted that the de-facto complainant had instituted a suit in O.S.No.341 of 2012 before the Sub Court, Padmanabapuram for declaration and recovery of possession and the suit was dismissed for non-prosecution on 08.01.2015.

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4. It is further contended that the de-facto complainant, who could not succeed before the competent civil Court, has filed the present complaint on 07.09.2015 to arm-twist the accused to come for a settlement before the criminal forum. It is further submitted that the petitioner is the honorary purchaser and he has been unnecessarily roped into this case.

5. Per contra, Mr.C.Kishore, learned counsel for the intervenor vehemently opposed the granting of anticipatory bail to the accused contending that the original owners Srinivasa Iyer and Krishna Iyer have sold 1 cent to the Temple by a registered Document No.2445 of 1121 and in the remaining extent, 2 cents was purchased by the father of the accused 3 and 4 and he sold the property in the year 1967 to one Lakshmi and therefore, the accused 3 and 4 without having any right or title over the land, purchased by the de-facto complainant Sangam and executed a settlement deed in favour of the accused 1 and 2 in the year 2011.

6. It is further submitted that the de-facto complainant had bona fide believed that the said Andi was original owner of the entire extent and laid the suit stating that the de-facto complainant was in permissive possession and enjoyment of the same and later on, he came to know that the land was purchased on behalf of the temple and thereafter, the de-facto complainant filed an application for amendment. Since the amendment application was dismissed, the de-facto complainant has filed a civil revision petition and the same is pending before the High Court and in the mean while, the trial Court has dismissed the suit for non-prosecution and the de-facto complainant is taking steps to restore the same.

7. It is further submitted that in view of the false claim made by the accused, the general public of the village are not able to worship the deities and it causes hardship to them.

8. Heard the learned Government Advocate (crl.side).

9. Considering the facts and circumstances of the case and also considering the rival submissions, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions. Accordingly, the petitioner is ordered to be released on bail in the event of his arrest or on his appearance before the Special Court for Land Grabbing, Tirunelveli District and on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further condition that the petitioner shall appear before the respondent police daily at 10.00 a.m. until further orders. The petitioner shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously.

10. The petitioner shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made



ready, failing which, the petition for anticipatory bail stands dismissed.

sd/-
11/08/2015

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

TO

- 1 THE SPECIAL COURT FOR LAND GRABBING, TIRUNELVELI DISTRICT.
- 2 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH / ALGSC, KANYAKUMARI DIST.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.S.PALANIVELAYUTHAM Advocate SR.No.45786

+1. CC to M/S.C.KISHORE, Advocate SR.No.45724

ORDER

IN

CRL OP(MD) No.13682 of 2015

Date :11/08/2015

PA/KBM/SAR-I/17.08.2015/3P/6C