



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

Friday, the Thirty First day of July Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice K.KALYANASUNDARAM

CRL OP(MD) Nos.13772 & 13773 of 2015

G.DHANPAL,

... PETITIONER / ACCUSED
IN CRL OP(MD) No.13772 of 2015

1.SIVASAMY
2.S.SUMATHI

... PETITIONERS / ACCUSED
IN CRL OP(MD) No.13773 of 2015

Vs

THE STATE REP.BY THE STATION HOUSE OFFICER,
DISTRICT CRIME BRANCH, DINDIGUL.
CRIME NO.33 OF 2015

... RESPONDENT / COMPLAINANT
IN BOTH PETITIONS

T.SREEDHAR REDDY

...INTERVENOR IN BOTH PETITIONS

For Petitioner : M/S.V.RAGHAVACHARI Advocate IN BOTH PETITIONS

For Respondent : M/S.K.V.RAJARAJAN Govt. Advocate (Crl. Side)
IN BOTH PETITIONS

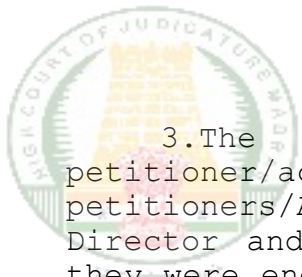
For Intervenor : M/S. J.LAWRANCE Advocate IN BOTH PETITIONS

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

COMMON ORDER : The Court Made the following order :-

The petitioners, who are arrayed as accused apprehend arrest at the hands of the respondent police for the alleged offences punishable under sections 406, 420, 465, 468 and 120(B) of IPC, in Crime No.33 of 2015 on the file of the respondent police and hence, seek anticipatory bail.

2.According to the de-facto complainant Mr.T,Sreedhar Reddy, he is a partner of Sri Lakshmi Agro Industries, Dharwad in the State of Karnataka and the firm was dealing with the business of procurement of cotton from various farmers on credit basis and after removal of seeds, they sold the cotton to various buyers on credit basis. It is further alleged that A3 one Selvam claimed to be a broker of M/s,Shree Lakshmi Ganesha Textiles, having its office at M/s.Sibi Exports (India) Private Limited purchased cotton yarn for A1 and A2, who are the Executing Director and Managing Director of the said Ms/Sibi Exports (India) P Limited for Rs.1,85,00,000/- representing that they will pay the amount, but failed to pay the sale consideration.



3.The learned counsel for the petitioners submitted that the petitioner/accused in Crl.O.P(MD)No.13772 of 2015 is the Manager and the petitioners/A1 and A2 in Crl.O.P(MD)No.13773 of 2015 are Executive Director and Managing Director of Ms/Sibi Exports India (P) Limited and they were engaged in the business of weaving and sizing of cotton yarn and to concentrate on their core business, they decided to sell their Spinning Mill situated at Kallikampatti in Dindigul Taluk; that one C.Selvam/A3, who is the proprietor of Ms/Shree Lakshmi Ganesha Textiles approached them and agreed to purchase the Textile Mill along with machineries for a total sale consideration of Rs.18.01 crores and also entered into an agreement, dated 05.11.2013 and paid Rs.1,00,000/- as advance by way of cheque, dated 11.11.2013, but the same was returned unpaid on 12.11.2013.

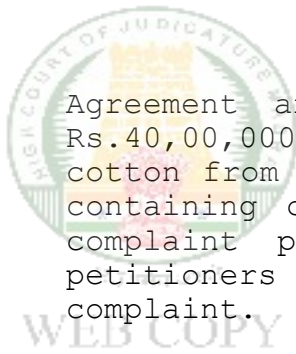
4.The learned counsel further submitted that A3 Selvam was not able to mobilise funds within the stipulated time mentioned in the Memorandum of Agreement and therefore, the petitioners/A1 and A2 sold the Spinning Mill to one M/s.Thomas Spinning Mills India Private Limited on 15.09.2014 for Rs.8.5 crores and they sold the machineries separately. While so, A3 Selvam preferred a false complaint with the Commissioner of Police, Coimbatore on 22.03.2014 alleging that he entered into an agreement with the accused 1 and 2 on 05.11.2013 to purchase the Textile Mill Sibi Exports for Rs.18,01,00,000/- and also took possession based on the MOU, procured yarn from the State of Karnataka and Andhara Pradesh from 12 persons for Rs.1,84,74,331/- and stored cotton yarn in the textile mill, however, without his knowledge, A1 and A2 sold the cotton and misappropriated the funds. The complaint of A3 was referred to the respondent police and the petitioners have submitted their explanations and also produced necessary documents and that the respondent, after elaborate enquiry found that A3 Selvam has lodged a false complaint and closed the complaint on 06.03.2015.

5.The learned counsel for the petitioners further submitted that at the instigation of A3, the present complaint was filed on 14.07.2015 alleging that A3 purchased cotton for the accused 1 and 2 and the sale consideration was not paid; that the accused have never purchased the cotton from the de-facto complainant and they are not liable to pay any amount to him and contended that the complaint was given for recovery of money, which is not sustainable in the eye of law.

6.Mr.J.Lawrance, learned counsel for the intervenor submitted that A1 and A2 have created a bogus company in the name of Shree Lakshmi Ganesha Textiles to evade taxes and they purchased cotton from the de-facto complainant for Rs.1,84,00,000/- through A3, but paid only Rs.30,00,000/- and the balance was not paid and thereby cheated the de-facto complainant.

7.The learned Government Advocate (Criminal side) vehemently opposed granting of anticipatory bail by filing counter and submitted that the investigation is at the initial stage and as per the confession of A3, A1 and A2 have created false documents and cheated the de-facto complainant. It is further submitted that the communication(SMS) of A1 and A2 with their Branch Manager and payment of Rs.30,00,000/- from their account, would reveal that the petitioners have now come up with false case and the procurement was made by A1 and A2.

8.The learned counsel for the petitioners by way of reply submitted that A3 was not able to complete the sale as per the Memorandum of



Agreement and thereafter, he acted as a broker and A2 and A3 paid Rs.40,00,000/- as cotton advance and it was not paid towards purchasing of cotton from the de-facto complainant. The petitioners has filed typed sets containing copies of MOU, dated 05.11.2013, sale deed, dated 15.09.2014 complaint preferred by A3 dated 22.03.2014, reply submitted by the petitioners and the conclusion of the respondent police in the earlier complaint.

9.It is not in dispute that A3 preferred a complaint against A1 and A2 on 22.03.2014 before the Commissioner of Police, Coimbatore alleging that he purchased cotton for about Rs.1,83,00,000/-from the de-facto complainant and other persons and the goods were sold without his knowledge by A1 and A2, wherein he has claimed that he is the absolute owner of the cotton. The complaint was enquired into by the respondent and the same was closed on 06.03.2015. Now, the respondent heavily relies on the confession of A3, in which he has stated that he conspired with A1 and A2 and purchased the cotton on their behalf from the de-facto complainant. This contradictory statement of A3 is untrustworthy and it cannot be put again the petitioners at this stage. Further, by virtue of the sale deed, dated 15.09.2014 A1 and A2 have sold the Mill to one M/s.Thomas Spinning Mills India Private Limited. Moreover, the de-facto complainant has not given the details of purchase made by A3, but vaguely stated that they have delivered 923 cotton bales at M/s. Sibi Exports India (P) Limited at Kalikkampatti worth of Rs.1,84,74,331/-.

10.Considering the above facts and circumstances of this case, this court is of the view that the petitioners are entitled for anticipatory bail with certain conditions.

11.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned Judicial Magistrate No.I, Dindigul and on each of them executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further condition that the first petitioner in CrI.O.P(MD)No.13773 of 2015 and the petitioner in CrI.O.P(MD)No.13772 of 2015 shall appear before the respondent police daily at 10.00 a.m until further orders and the 2nd petitioner in CrI.O.P(MD)No.13773 of 2015 shall appear before the respondent police as and when required for interrogation. The petitioners shall comply with the condition stipulated under Section 438 Cr.P.C. Scrupulously.

12.The petitioners 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/-
31/07/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)



TO

1 THE JUDICIAL MAGISTRATE, NO.I, DINDIGUL.

2 DO THRO THE CHIEF JUDICIAL MAGISTRATE, DINDIGUL.

3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

4 THE STATION HOUSE OFFICER,
DISTRICT CRIME BRANCH, DINDIGUL DISTRICT.

+2. CC to M/S.V.RAGHAVACHARI Advocate SR.No. 43573

+2cc to M/S. J.LAWRANCE, Advocate in SR.No 43287 & 43286

TS/06.08.2015/4P - 9C AMF/SAR -I

ORDER

IN

CRL OP(MD) Nos.13772 & 13773 of 2015

Date :31/07/2015