



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

Monday, the Twenty Third day of February Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.17214 of 2014

1 RAMAMOORTHY
2 KANTHAVEL
3 VEEMAN
4 BOOMINATHAN
5 MAHENDRAN

... PETITIONERS/ACCUSED No.1 TO 5

Vs

STATE.REP.BY
THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH (ANTI LAND GRABBING CELL),
VIRUDHUNAGAR DISTRICT,
CR.NO.23/2014

... RESPONDENT/COMPLAINANT

C.THARMAR

...INTERVENOR IN MP(MD)NO.1/14
IN CRLOP(MD)NO.17214/14

For Petitioner : M/S.S.RAMASAMY Advocate

For Respondent : MR.K.ANBARASAN, Govt. Advocate (Crl. Side)

For Intervenor : M/S.S.SATHISH KUMAR, 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, 471 and 506(ii) IPC in Crime No.23 of 2014 on the file of the respondent police, seek anticipatory bail.

2. Heard the learned counsel for the petitioners, the learned counsel for the defacto complainant and the learned Government Advocate (Crl.Side) appearing for the State.

3. Initially, this matter was referred to the Mediation Centre and a failure report dated 06.02.2015 has been received from the Mediation Centre.

4. It is the case of the prosecution that the property in question originally belonged to one Marimuthuammal. Marimuthuammal had two sons by name Kanthavel and Dharmar and one daughter by name Panchavarnam. The property in question falls within S.Nos.12/7, 12/9 and 12/10 and measures 3.5 acres. Marimuthuammal executed a Will dated 18.08.2006, bequeathing the properties in favour of her son Dharmar. Marimuthuammal died subsequently in the year 2010. Thereafter, Kanthavel has executed a sale deed on 14.06.2013 in favour of Ramamoorthi, the 1st petitioner herein. In the sale deed, it is stated as if Kanthavelu has inherited the property absolutely from his mother Marimuthuammal.



5. It is seen that Kanthavel has signed as a witness in the Will executed by Marimuthuammal.

6. Learned counsel for the petitioners submitted that the defacto complainant had given a Power of Attorney to Panchavarnam and only through Panchavarnam, the sale deed was executed in favour of the 1st petitioner.

7. On the contrary, learned counsel for the Intervenor brought to my notice a Will that was executed by Marimuthuammal in favour of the defacto complainant in which both Kanthavel and Veeman have signed as witnesses. While so, knowing full well that the property has been bequeathed to the defacto complainant, Kanthavel has executed a sale deed in favour of Ramamoorthi (1st petitioner herein) on 14.06.2013, as if he obtained the property as a legal heir of late Marimuthuammal.

8. Even assuming that there was no Will, Kanthavel is not the only the legal heir of Marimuthuammal. Ramamoorthi cannot also plead innocence, because the title to the property, as claimed by Kanthavel in the recitals itself appears to be unbelievable. Under such circumstances, this Court is not inclined to grant anticipatory bail to the petitioners 1 to 3. As regards the petitioners 4 and 5 are concerned, the allegations are not very serious against them. Hence, this Court is inclined to grant anticipatory bail to the petitioners 4 and 5. Accordingly, the petitioners 4 and 5 are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Virudhunagar, on condition that each of the petitioner shall execute 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

[a] the petitioners 4 & 5 shall report before the respondent police as and when required for interrogation.

[b] the petitioners 4 & 5 shall not tamper with evidence or witness either during investigation or trial.

[c] the petitioners 4 & 5 shall not abscond either during investigation or trial.

[d] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

9. This petition in respect of the petitioners 1 to 3 is dismissed.

sd/-
23/02/2015

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



TO

1. THE JUDICIAL MAGISTRATE NO. II, VIRUDHUNAGAR.

2. THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

3. THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH (ANTI LAND GRABBING CELL),
VIRUDHUNAGAR DISTRICT.

4. THE ADDL. PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.S. RAMASAMY Advocate SR.No. 8298

+1cc to MR.S.SATHISH KUMAR, ADVOCATE IN SR NO. 8345

ORDER

IN

CRL OP(MD) No.17214 of 2014

Date : 23/02/2015

rg.24.02.2015

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