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

Thursday, the Twenty Second day of January Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) Nos.17646 and 17647 of 2014

K.MANIKANDARAJA .. PETITIONER/ACCUSED in CRL.OP(MD) No.17646/14
H.SYED ABUTHAKIR .. PETITIONER/ACCUSED in CRL.OP(MD) No.17647/14

M.MANIKANDAN ...INTERVENER

Vs

THE SUB INSPECTOR OF POLICE
ANTI-LAND GRABBING SPECIAL CELL,
CITY CRIME BRANCH,
TRICHY CITY.
CRIME NO. 7 OF 2014. ... RESPONDENT/COMPLAINANT IN BOTH PETITIONS

For Petitioner : Mr.P.SARAVANAKUMAR Advocate for
M/S.UDHAYA LAW ASSOCIATES in CRL.OP(MD) No.17646/14

For Petitioner : Mr.T.SENTHIL KUMAR Advocate in CRL.OP(MD)No.17647/14

For Respondent : Mr.C.RAMESH, Government Advocate (Crl. Side)
in both petitions

For Intervener : Mr.T.Vadivelan, Advocate

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

ORDER : The Court Made the following order :-

COMMON ORDER

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offence punishable under Sections 420, 465, 468 and 471 IPC in Crime No.7 of 2014 on the file of the respondent police, seek anticipatory bail.

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

3.On 20.01.2015, this Court passed the following order:

"It is the case of the prosecution that the land measuring about 1 acre belongs to one Meenakshi Achi, on whose death, the said land devolved upon her legal heirs, who have given power of attorney to one Manikandan, who is the defacto complainant in this case. While so, one Karuppiah, the father of Manikanda Raja (A2) had created a dhana settlement deed on 18.04.2011, settling the said property in favour of his son Manikanda Raja. Thereafter, Karuppiah died on 13.07.2011. On the strength of the settlement deed, Manikanda Raja (A2) has entered into a

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registered sale agreement dated 12.04.2012 with Syed Abuthakir, who is the petitioner in Crl.O.P.(MD).No.17647 of 2014.

2.According to the defacto complainant, Karuppiah does not have any title to the property and that he has created encumbrance on the property by registering the dhana settlement deed in favour of his son. The F.I.R. in this case was registered on 14.03.2014 and in that F.I.R., Karuppiah has been shown as A1. It appears that Manikanda Raja had also registered a power of attorney in favour of Syed Abuthakir on 23.10.2013 for dealing with the said property.

3.Now it is seen that, even before the case was registered, the said settlement deed dated 18.04.2011 and the power of attorney were cancelled by Manikanda Raja on 06.02.2014. It is seen that Syed Abuthakir has filed a suit in O.S.No.488 of 2014 against Manikanda Raja and Valliyappan (the legal heir of Meenakshi Achi) for a declaration that the cancellation of the power of attorney and the settlement deed as null and void. The learned counsel for the defacto complainant/intervenor produced the patta signed by the Revenue Officials on 05.02.2010, in which it is seen that the land in question is in the possession of Meenakshi Achi and Karuppiah. This patta according to the intervenor is a forged document, because Karuppiah was never in possession of the land in question.

4.Now that the civil suit has been filed and the civil court is seized of the mater, I am of the opinion that this is a fit case to grant anticipatory bail to the petitioners provided both the petitioners give an unconditional undertaking preferably in Tamil before this Court that they would not in any way encumber the property and that they would maintain status quo.

5.Post the matter on 22.01.2015 for orders".

4.Today, Syed Abuthakir (A.3) and Manikandaraja (A.2) have each filed an affidavit in Tamil, wherein they have clearly stated that till the entire dispute is resolved, they will not create any encumbrance over the subject property.

5.The learned counsel for the intervener bring to my notice the last line in the affidavit, which reads as follows:

மேற்படி சொத்தை எந்தவிதமான வில்லங்க விவகாரங்களுக்கும் உட்படுத்தாமல் இன்று உள்ள நிலைமையிலேயே தொடர்ந்து வைத்திருப்பேன் என்றும் இதன் முலம் உறுதி கூறுகின்றேன்.

He submits that by virtue of this line, the petitioners are contending that they are keeping possession of the property.

6.In my considered opinion, even according to the petitioners, they have cancelled the powers of attorney and the sale deed. Therefore the aforesaid line will only simply mean maintaining status quo and will not mean possession. Under the said circumstances, I am inclined to grant anticipatory bail to the petitioners. Accordingly, the petitioners 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, Anti Land Grabbing Special Court, Trichy on condition that the petitioners shall execute a separate 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:

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

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

[c] the petitioners 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].

sd/-
22/01/2015

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

TO

1.THE JUDICIAL MAGISTRATE ANTI LAND GRABBING SPECIAL COURT, TRICHY.

2.DO THRO THE CHIEF JUDICIAL MAGISTRATE, TRICHY.

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

4.THE SUB INSPECTOR OF POLICE
ANTI-LAND GRABBING SPECIAL CELL, CITY CRIME BRANCH, TRICHY CITY.

+1. CC to M/S.T.SENTHIL KUMAR, ADVOCATE SR NO.2966

+1CC TO MR. T.VADIVELAN, ADVOCATE SR NO.3265

ORDER
IN
CRL OP(MD) Nos.17646 & 17647 of 2014
Date :22/01/2015

RG.28/01/2015 3P.7C.

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