



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

Tuesday, the Twenty Fourth day of March Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP (MD) Nos.18860 and 19868 of 2014

1 JANANAME JAYAM
2 SHEIK MYDEEN
3 MOHAMED KALITH

... PETITIONERS/ ACCUSED NO.4,5 AND 6
IN CRL.O.P.No.18860/2014

1.K.V.NAGASUNDARAM
2.K.V.KUMARASAMY

... PETITIONERS/ ACCUSED NO.2 & 3 IN CRL.O.P.No.19868/2014

K.N.MANICKAVASAGAM ...INTERVENER IN BOTH THE CASES.

Vs

1.THE STATE REP.BYS
THE INSPECTOR OF POLICE
CENTRAL CRIME BRANCH, MADURAI CITY,
CR.NO.115 OF 2014

... RESPONDENT / COMPLAINANT
IN CRL.O.P.No.18860/2014

2.THE SUB INSPECTOR OF POLICE
CITY CRIME BRANCH POLICE STATION,
MADURAI CITY,
CR.NO.115 OF 2014

... RESPONDENT / COMPLAINANT
IN CRL.O.P.No.19868/201

For Petitioner : M/S.S.MAHENDRAPATHY Advocate
IN CRL.O.P.No.18860/2014

For petitioner : MR.B.A.MURUGANANTHAM,Advocate
IN CRL.O.P.No.19868/201

For Respondent : MR.A.P.BALASUBRAMANIAN, Govt. Advocate (Crl. Side)
IN BOTH THE CASES

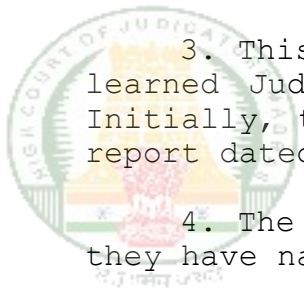
For Intervener : MR.S.SUNDARAPANDIAN, ADVOCATE IN BOTH THE CASES.

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 109, 406, 420, 294(b) and 506(ii) IPC in Crime No.115 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 complainant and the learned Government Advocate (Crl.Side) appearing for the State.



3. This case has been registered pursuant the direction issued by the learned Judicial Magistrate No.I, Madurai under Section 156(3) Cr.P.C. Initially, this matter was referred to the Mediation Centre and a failure report dated 22.01.2015 has been received from there.

4. The respondent police have filed a detailed status report in which they have narrated the facts of the case as follows:

i) The defacto complainant in this case is one Annadurai. Annadurai's father Gurusamy entered into a registered sale agreement with one K.V.Subramanian (A1) for purchasing undivided share of land to an extent of 240 sq.ft. in the property comprised in Door No.1 (TS No.870 and 871), Nanmai Tharuvar Koil Street, Arisikara Street, Madurai and the agreement was registered as Doc.No.2376 of 2010 in the office of the Joint Sub-Registrar No.4, Madurai. At the time of entering into the agreement, Gurusamy had paid Rs.2,00,000/- to K.V.Subramanian (A1) as advance. K.V.Subramanian (A1) received another sum of Rs.50,000/- on 25.10.2010 and extended the agreement period for further one year with necessary endorsement thereon.

ii) During the subsistence of the sale agreement, in order to create encumbrances on the property, K.V.Subramanian (A1) executed a General Power of Attorney in respect of the same property in favour of one Chandrasekar on 29.12.2010 and registered the same as Doc.No.2988 of 2010 in the office of the Joint Sub-Registrar No.4, Madurai. On the strength of the Power of Attorney, Chandrasekar entered into an agreement with one Manoharan in respect of the same property on 18.01.2011 and received a sum of Rs.50,000/- as advance sale consideration and registered the sale agreement as Doc.No.359 of 2011 on the file of the Joint Sub-Registrar No.4, Madurai.

iii) When Gurusamy approached K.V.Subramanian (A1) as to why he encumbered the property, A1 assured him that he will cancel all the encumbrances on receipt of Rs.5,30,000/- from Gurusamy. Therefore, Gurusamy paid Rs.5,30,000/- to K.V.Subramanian (A1), on receipt of which, K.V.Subramanian executed a Power of Attorney dated 25.04.2011 registered as Doc.No.907 of 2011 in favour of Gurusamy and also issued a sale receipt for Rs.7,80,000/-

iv) K.V.Nagasundaram (A2) and K.V.Kumarasamy (A3) / petitioners in Crl.O.P.(MD) No.19868 of 2014 are the own brothers of K.V.Subramanian (A1) and they approached Gurusamy and came forward to sell their undivided share in the said property, like how their brother had done. Believing their words, Gurusamy paid them Rs.15,60,000/- and after receiving the same, K.V.Nagasundaram (A2) and K.V.Kumarasamy (A3) gave a General Power of Attorney on 27.06.2011 in favour of Gurusamy, which was registered as Doc.No.1440 of 2011 and they have also issued a sale receipt to Gurusamy for having received Rs.15,60,000/-.

v) While so, Gurusamy died on 16.04.2012. After the death of Gurusamy, when his son Annadurai / defacto complainant approached K.V.Subramanian (A1), K.V.Nagasundaram (A2) and K.V.Kumarasamy (A3) for executing the sale deed, they deliberately dragged the matter on some pretext or the other and K.V.Nagasundaram (A2) and K.V.Kumarasamy (A3) along with A4 entered into a sale agreement with one Mohammed Abubakar on receipt of Rs.5,00,000/- as advance and registered the same as Doc.No.1508 of 2013 on the file of the Joint Sub-Registrar No.4, Madurai.



5. It is seen that A1 to A4 have cancelled the Power of Attorney given in favour of Mohammed Abubakkar vide Doc.No.4981 of 2014 on 21.05.2014 and on the same day, they have executed a sale deed in favour of one Sheik Mydeen (A5) and Mohamed Kalith (A6) for the sale consideration of Rs.2,24,000/- and registered the same as Doc.No.4982 of 2014.

6. Learned counsel for the petitioners submitted that Sheik Mydeen and Mohamed Kalith are only innocent purchasers and they cannot be faulted with.

7. On a conspectus of the facts obtaining in this case, this Court finds that K.V.Subramanian (A1), K.V.Nagasundaram (A2) and K.V.Kumarasamy (A3) along with Jananame Jayam (A4), Sheik Mydeen (A5) and Mohamed Kalith (A6) have been consistently creating encumbrances on the property, even though they had received huge amount of money from the father of defacto complainant and taking advantage of the fact that the father of the defacto complainant had died.

8. Sheik Mydeen and Mohamed Kalith cannot plead that they are innocent purchasers, because, a sale agreement was registered as Doc.No.2376 of 2010 and a Power of Attorney was also registered. Thus, all these accused have been dealing with the property by registering and re-registering documents in order to cheat the defacto complainant.

9. Taking into consideration the serious nature of allegations against all these petitioners, this Court is not inclined to grant anticipatory bail to them. Hence, both the Criminal Original Petitions are dismissed.

10. In the status report, it is seen that K.V.Subramanian (A1) has filed an anticipatory bail petition before the learned Principal Sessions Judge, Madurai and the same pending since November, 2014, which is indeed surprising. This Court does not want to say anything further.

sd/-
24/03/2015

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

TO

1.THE INSPECTOR OF POLICE,CENTRAL CRIME BRANCH, MADURAI CITY.

2.THE SUB INSPECTOR OF POLICE

CITY CRIME BRANCH POLICE STATION, MADURAI CITY.

3.THE ADDL. PUBLIC PROSECUTOR,

MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.S.MAHENDRAPATHY Advocate SR.No.14654

+1cc to MR.S.SUNDARAPANDIAN, ADVOCATE IN SR NO. 14764

ORDER

IN

CRL OP(MD) NoS.18860 & 19868 of 2014

Date :24/03/2015