



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Thursday, the Nineteenth day of March Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.19399 of 2014

1 M. GUNASEKARAN
2 R. RAVICHANDRAN
3 R. JEYAKUMAR

..PETITIONERS/ACCUSED 1 to 3

RAJASIVABALAN

..INTERVENOR

Vs.

STATE REP.BY THE INSPECTOR OF POLICE
NAGAIAPURAM POLICE STATION,
PERAIYUR TALUK, MADURAI DT.
CR.NO.192 OF 2014

..RESPONDENT/COMPLAINANT

For Petitioner : M/S.M.GURURAJ Advocate
For Respondent : Government Advocate (Crl.Side)
For Intervenor : Mr.S.BALAJI, 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 406, 419, 471 and 420 IPC in Crime No.192 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 Intervenor 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.

4. The defacto complainant in this case is one Raja Sivabalan, who is the son of Venkatammal and Subba Reddy. The property in question is 7 acres 92 cents of land in Gowndanpatti Village, Peraiyur Taluk (hereinafter referred to as "the subject property"). According to the defacto complainant, the subject property and other properties belonged to the father of Venkatammal by name Mahalingam. It is stated in the complaint that Venkatammal and her sister Baradha acquired title to the subject property by virtue of an oral partition, that is supposed to have been held amongst the family members of Mahalingam. It is relevant to state here that there is no date given in the complaint as to when the oral partition took place.

5. After acquiring the subject property, Baradha and Venkatammal mortgaged the property to one S.Kasthuri on 04.10.1979 by way of a deed of mortgage registered as Doc.No.1762 of 1979 on the file of Peraiyur Sub
<https://hcrs.ecourts.gov.in/offices/> The said mortgage was continuing as it is and Venkatammal died on 08.10.1995. After the death of Venkatammal, it is alleged by the defacto complainant that the petitioners herein had

created a document as Doc.No.16

6. Learned on the aver

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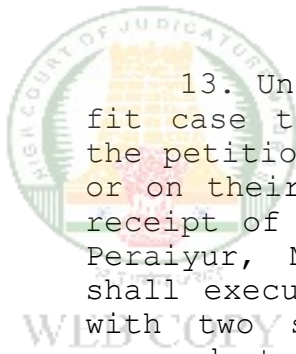
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8. It is the case of the petitioners that the Document Writer, in a mechanical manner has used a format in which it has been inadvertently stated that Kasthuri had received Rs.8,000/- from Venkatammal and Baradha on 17.08.2006. It is also the case of the petitioners that for the purpose of registering the discharge document, mortgagors need not be present.

10. Learned counsel for the defacto complainant has refuted this allegation and submitted that after attaining majority and becoming worldly wise, the defacto complainant came to know about the document dated 17.08.2006 and hence, he lodged the present complaint.

12. Learned Government Advocate (CrI.Side) produced the statement of Baradha that was recorded by the Police on direction by this Court. In her statement, she has clearly stated that she had given up all the claims of immovable property in accordance with their family custom in her parents' house and brother and father giving her substantial amount of money at the time of her marriage. She has also categorically stated that she has no claim over the property in dispute.



13. Under such circumstance, this Court is of the view that this is a fit case to grant anticipatory bail to these 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, Peraiyur, Madurai District, 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 shall report before the respondent police daily at 06:30p.m. for a period of two weeks and thereafter 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/-
19/03/2015

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Sub-Assistant Registrar (C.S.)

TO

1 THE JUDICIAL MAGISTRATE, PERAIYUR, MADURAI DISTRICT.

2 -DO-THRO'THE CHIEF JUDICIAL MAGISTRATE, MADURAI.

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

4 THE INSPECTOR OF POLICE, NAGIAHPURAM POLICE STATION, PERAIYUR TALUK,
MADURAI DISTRICT.

+1. CC to M/S.M.GURURAJ Advocate SR.No.13148

+1CC to M/s.S.BALAJI, Advocate in SR.13362

ORDER IN
CRL OP(MD) No.19399 of 2014
Date :19/03/2015

PBK 20/03/2015 ::3P-7C: