



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

Thursday, the Fifth day of March Two Thousand Fifteen

PRESENT
THE HON`BLE MR JUSTICE P.N.PRAKASH

CRL OP(MD) No.2095 of 2015

WEB COPY

1 C. PAKKIRISAMY
2 MURUGESAN
3 JCB BALU
4 NASER
5 SINGARAVELAN
6 ANBUDURAI
7 AMSAVALLI
8 SUBRAMANI
9 SELVAN
10 KALITHAS

... PETITIONERS / ACCUSED

Vs

THE INSPECTOR OF POLICE

IDAYAKOTTAI POLICE STATION, IDAYAKOTTAI, DINDIGUL DT,

CRIME NO.10/2015

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.V.R.VENKATESAN Advocate

For Respondent : Mr.A.P.BALASUBRAMANIAN, Govt. Advocate (Crl. Side)

For Intervenor : Mr.S.R.Suresh Kumar, Advocate

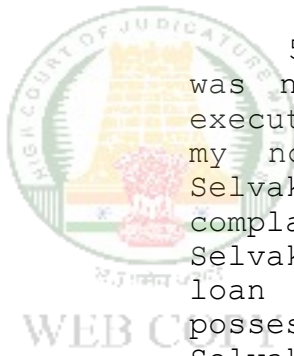
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

On 12.02.2015, this Court, while granting interim anticipatory bail to the first petitioner, passed the following order:-

"3.The case of the de facto complainant is that the property in question is named as "Balan Complex". Admittedly, it belonged to one Balan. According to the de facto complainant, he purchased this property from Balan on 17.08.2012 and since then, he is in physical possession of the said property. It is alleged by the de facto complainant that the petitioners herein have forcibly tried to dispossess him from the property. On 05.12.2014, the petitioners attempted to enter into the building and take physical possession of it by throwing the de facto complainant out.

4.Learned counsel for the petitioners submits that the said Balan had borrowed money from the petitioners to the tune of Rs.25,00,000/- sometime in March 2012 and in consideration of that, he had put the petitioners in possession of "Balan Complex", so that the petitioners can use the rent for the loan that has been taken by Balan. It is the contention of the learned counsel for the petitioners that the said Balan after having given physical possession of the property to the petitioners, surreptitiously executed a sale deed on 17.08.2012 in favour of the de facto complainant, for a very low sum of Rs.20,00,000/- when actually the property would fetch not less than Rs.40,00,000/-.



5. According to the petitioners, the de facto complainant was never in possession of the property and the sale deed executed by Balan is sham. In this regard, it was brought to my notice, a plaint in O.S.No.97 of 2014 filed by one Selvakumaran S/o. Balan against Balan, K.R.Periyasamy (de facto complainant), C.Pakkirisamy (1st petitioner herein) and the Selvakumaran has averred that his father Balan had obtained loan on the property from C.Pakkirisamy and put him in possession of the shops in the building. According to Selvakumaran, his father had no title over the property, as it is ancestral property and the suit in O.S.No.97 of 2014 is a partition suit and that has been filed as early as on 06.10.2014. Thus, this matter essentially appears to be a civil dispute between two rival claimants for the possession of the property."

2. On 27.02.2015, the Deputy Superintendent of Police, has filed a status report, in which, it is stated as follows:-

"4. I further humbly submit that the investigation further reveals that, the de-facto complainant has purchased the property from S.Balan through a registered sale deed dated 17.08.2012. The de-facto complainant made some renovation works in the shopping complex as well as in the house and obtained new electricity connection for the house and shopping complex in his name and transferred revenue records in his name. Thereafter the de-facto complainant rented the first floor to Muthoot Mini Finance Ltd., through a lease deed dated 25.06.2014 and he is receiving rent Rs.13,000/- from the Muthoot Mini Finance Ltd. The complex is having seven shops in the ground floor. One selvaraj a resident of Vedasanthoor Village is running a fertilizer shop in one shop in the name of Sree Amman Traders and using 4 shops as stock rooms and paying rent Rs.5,000/- for which there is no agreement between them. The remaining two shops, one is occupied by the first petitioner another one is under the de-facto complainant and in the house is also occupied by the first petitioner."

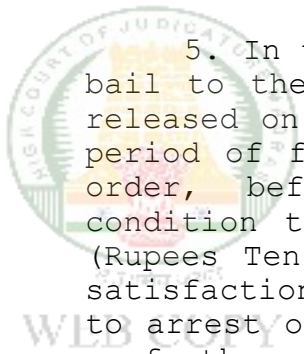
3. On 27.02.2015 this Court passed the following order:-

"4. This Court does not want to go into disputed question of facts and that has to be decided by the appropriate civil Court. As far as the jurisdiction of this Court is concerned, it has to see whether any offence has been committed and whether there continued possibility of further offences committed in connection with the disputed property. This Court has directed the petitioners to give an undertaking that they will maintain status quo and will not resort to any high-handed method and that they will settle all the dispute with the de-facto complainant before the civil Court.

4. Today all the petitioners have separately sworn to an affidavit wherein they have stated in paragraph No.4 as follows:-

"4. I respectfully state that by filing this affidavit, I am giving undertaking before this Hon'ble Court to the effect that I will maintain Status Quo and I will not create any law and order problem and further I will resort the subject matter of the issue in Crime No.10 of 2015 only through an appropriate Civil Court.

<https://hcservices.hcma.gov.in/hcservices>, I am filing this affidavit."



5. In view of the above this Court is 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 (15) days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Ottanchathiram on condition that the petitioners 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 6.30 p.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/-
05/03/2015

/ TRUE COPY /

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

TO

1 THE JUDICIAL MAGISTRATE
OTTANCHATHIRAM

2 -DO- THRO THE CHIEF JUDICIAL MAGISTRATE
DINDIGUL DISTRICT

3 THE DEPUTY SUPERINTENDENT OF POLICE,
OTTANCHATHIRAM.

4 THE INSPECTOR OF POLICE
IDAYAKOTTAI POLICE STATION, IDAYAKOTTAI, DINDIGUL DISTRICT.

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.V.R.VENKATESAN Advocate SR.No.10663

Sm:10.03.2015:3P/7C:

<https://hcservices.ecourts.gov.in/hcservices/>

ORDER IN
CRL OP(MD) No.2095 of 2015
Date :05/03/2015