

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL PETITION No. 2037 of 2015

ORDER:

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The petitioners, who are accused Nos.1 to 5, filed the present Criminal Petition under Section 438 Cr.P.C. seeking release in the event of their arrest in connection with Crime No.29 of 2015 of Vatchavai Police Station, Krishna District, registered for the offences punishable under Sections 420, 423, 468, 471, 474, 120-B 199 and 506 read with 34 IPC. Originally a private complaint was filed under Section 200 Cr.P.C. which was referred to the police under Section 156 (3) Cr.P.C.

The averments in the complaint are as under:

The complainant is the younger brother of accused No.1. Accused No.3 is her husband and accused No.2 is her son, accused Nos.4 and 5 are the attestors of the gift deed. The father of the informant by name Bhagam Krishna Murthy who acquired Ac.4.90 cents situated in Vemulanarva village, died intestate leaving behind his wife, daughter and two sons. The elder brother of the informant by name Bhagam Jaganmohan who also died on 12.05.2002 left behind two daughters and wife. The informant was working in a private company at Roorkela. The informant submits that after the death of his father, he asked accused No.1 to partition the land. Their mother stated that she does not want any share in the property but however wanted the property to be partitioned after her death only. Their mother used to state to the informant that each child should get one share. The informant further submits that after the death of his mother, he asked his sister ie. accused No.1 to partition the land for which she told the informant him that there was no urgency. Believing the words, he joined in his job at Roorkela. One day the informant received a phone call from his paternal uncle's son stating that accused No.1 got transferred the property in her name and no piece of land is left for him. Immediately, the informant came to the village and his enquiries revealed that in the year 2009 accused No.1 to 3 colluded together hatched a plan to cause wrongful loss to the informant and with help of accused Nos.4 and 5 got registered the property in the name of accused No.1 and 3 as if the same was done by their mother by forging her signature. When the informant asked accused No.1 about the same, she along with accused Nos.2

and 3 are alleged to have beaten him and threatened with dire consequences. Basing on these allegations the above case came to be registered.

Heard learned counsel for the petitioners and learned Public Prosecutor appearing for the respondent-State.

Learned counsel for the petitioners submits that even accepting the allegations in the report to be true no offence is made out and as the dispute is between the family members the petitioners are entitled for anticipatory bail.

Learned Public Prosecutor opposed the application contending that this is a case, where the accused forged and impersonated the dead person and got the properties transferred in the name of accused Nos.1 and 3.

As seen from the record, the averments in the report clearly disclose that the accused fabricated a gift deed and used the same in getting the property transferred in the name of accused Nos.1 and 3. The said document said to have been executed in the office of Sub-Registrar was not in accordance with law. A perusal of the C.D. file would show that the signature of the mother of the informant in the gift deed is different from earlier sale deed dated 04.10.2007 alleged to have been executed by her wherein she signed as Bhagam Bharati and not as Bhagam Bharathamma. The register of milk diary in which the deceased was a member also discloses that she signed therein as Bhagam Bharati. Therefore the argument of the learned counsel for the petitioners that the petitioners are innocent cannot be accepted at this stage.

Accordingly, the Criminal Petition is dismissed, leaving it open to the petitioners to surrender before the Court concerned and move an application for bail before an appropriate Court after giving prior notice to the public prosecutor concerned, in which event the same shall be dealt with in accordance with law either on the same day or at the earliest.

JUSTICE C. PRAVEEN KUMAR

18.03.2015

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