

Crl.O.P. No.30654 of 2015**P.N. PRAKASH, J.**

On the complaint lodged by one Sivakumar, the respondent police registered a case in Cr. No.27 of 2015 on 26.10.2015 under Sections 120-B, 419, 465, 468, 471 and 420 IPC against one Mandaveli and 3 others.

2 It is the case of the de facto complainant that the land in question measuring 4.46 acres in Vadakkuppattu Village, Sriperumbudur Taluk, belongs to one Saraswathi Ammal, mother of Sivakumar. Saraswathi Ammal is said to have orally leased out the land in question to Mandavelli (A1). Saraswathi Ammal left for Mumbai and she was staying in Mumbai with her sons. While so, Mandaveli (A1), taking advantage of the fact that Saraswathi Ammal is away, gave a power of power of attorney in 1976, as if he is the owner of the property in favour of Thanigai Arasu (A2), his son. Saraswathi Ammal died on 27.06.2005. Thanigai Arasu (A2), in turn, sold the land to his own brother Palanisamy (A3) by a sale deed bearing document no.7917 of 2006 on 01.09.2006 registered in Sub-Registrar's Office, Walajabad. Palanisamy (A3), in turn, divided the property into three portions and sold one portion to Joseph Karunyaraj vide sale deed

bearing document no.266 of 2007 dated 08.01.2007, another portion to Manoharan vide sale deed bearing document no.267 of 2007 dated 08.01.2007 and yet another portion vide sale deed bearing document no.268 of 2007 daetd 08.01.2007.

3 The story has a second track to it. One Viswanathan claiming himself to be the legal heir of Saraswathi Ammal, produced the death certificate of Saraswathi Ammal, wherein, it is mentioned as Saraswathi Ammal had died on 11.01.2006. Viswanathan produced legal heir certificate dated 24.02.2006, wehre in, it is stated that he is the only legal heir of Saraswathi Ammal. Thereafter, Viswanathan, along with his sons, viz., Palani, Kumar and Muthu, executed a power of attorney for the same property belonging to Saraswathi Ammal in favour of one Guhan on 15.07.2008 by document no.2172 of 2008 registered in Sub-Registrar's Office, Anna Nagar. The said Guhan who is the power of attorney holder of Viswanathan and his sons, sold 3.46 acres of the same property to one Tamil Selvi (first petitioner herein) through one V. Sathish Kumar who is said to be a confirming party, by two deeds of sale document bearing nos.6495 & 6496 of 2008 dated 18.08.2008 in the Sub-Registrar's Office, Walajabad

4 It appears that apart from this, Tamil Selvi has other properties

as well in and around the area in question. Therefore, Tamil Selvi sold all the properties including the land of 4.46 acres to Almco Properties Private Private Ltd., represented by Chandrasekaran, its Chairman, by two document nos.917 of 2009 and 918 of 2009 on 27.02.2009 in the Sub-Registrar's Office, Walajabad. Sivakumar, S/o Saraswathi Ammal, on coming to know of this, has filed the present FIR.

5 At the time of registration of FIR, neither Tamil Selvi nor Chandrasekaran, Chairman of Almco Properties Private Limited were arrayed as accused and their involvement in the alleged crime came to light only during investigation.

6 While so, Tamil Selvi and Almco Properties Private Ltd., represented by Chandrasekaran, are before this Court seeking anticipatory bail.

7 By order dated 15.02.2016, the parties, viz., Tamil Selvi, Chandrasekaran and the Sivakumar (de facto complainant) were referred to the Mediation & Conciliation Centre for arriving at a settlement.

8 Tamil Selvi and Chandrasekaran have come forward to cancel the sale deed in respect of 4.46 acres of land belonging to Saraswathi

Ammal. They have also put Sivakumar in possession of his 4.46 acres of land. But, they were not able to cancel the sale deed, because, the sale deeds in document nos.917 and 918 of 2009 encompass not only the land in question measuring 4.46 acres belonging to Saraswathi Ammal group, but also, other properties.

9 The learned counsel for Sivakumar submitted that on 29.11.2016, Tamil Selvi and Chandrasekaran have put Sivakumar in possession of his 4.46 acres of land.

10 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 days from the date of receipt of a copy of this order, before the Judicial Magistrate No.I, Kancheepuram, on condition that the petitioners 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 10.30 a.m. for a period of four 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]**.

The petitioners are directed to cancel the documents relating to 4.46 acres of land, so that there is no encumbrance in the property in 4.46 acres of land belonging to late Saraswathi Ammal. If the petitioners do not cooperate, it is open to Sivakumar (de facto complainant) to file an application seeking cancellation of anticipatory bail.

02.12.2016

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Note to Office: Issue order copy by 08.12.2016

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(Anticipatory Bail)

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