

Crl.O.P.Nos.4922 & 5324 of 2016**K.KALYANASUNDARAM, J.**

The petitioners, who are arrayed as A1 to A3, apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 420, 468, 471 and 506(ii) IPC, in Crime No.87 of 2016, on the file of the respondent police and hence, seek anticipatory bail.

2. According to the defacto complainant, originally, the property to an extent of 65 cents in Survey No.51/27 of Meiyyanur Village in Salem City belongs to Kullammal and 6 others and they sold the property to one Nachiappa Company by registered sale deeds dated 21.03.1966 registered as Document Nos.2040 of 1966 and 2086 of 1966 respectively. The said company was dissolved on 31.03.1979 and the father of the defacto complainant was one of the Directors and the remaining five Directors of the company have executed a release deed in favour of his father on 20.03.1986. Based on the release deed, he settled the property in favour of the defacto complainant on 08.08.2005. While so, the accused, by fabricating the documents, claimed right over the property.

3. The learned counsel appearing for the petitioners would submit that the property comprised old survey Nos.92/1 & 93/1 and new survey Nos.51/27 and 51/31 to an extent of 11 Acres was originally owned by one Rama Boyan, who had two sons viz., Poosari Boyan and Kuruva Boyan. They partitioned the properties and in the partition, Poosari Boyan was allotted 5.99 Acres and the said Poosari Boyan had seven sons and the property in dispute S.F.No.51/27 to an extent of 65 cents, was allotted to his son Rama Boyan. After the demise of Rama Boyan, his legal heirs viz., Thirupathi Boyan and his son Ravi have settled the property in favour of his son, T.Sekar by a settlement deed dated 31.12.2009 registered as document No.7180 of 2009. The said Sekar executed a power of attorney in favour of C.Angappan, who is the first petitioner, on 09.08.2010, registered as document No.1233 of 2010 and the second petitioner has purchased the property through her power agent in the year 2010.

4. The learned counsel further submitted that the defacto complainant claims right over the property based on the sale deeds dated 17.09.1957 and 27.10.1961 respectively. However, in both the documents, the disputed property was not mentioned and those documents relate to some other properties. It is further submitted that the defacto complainant claims right based on the unregistered release deed dated 20.03.1986 and the defacto complainant cannot

claim any right based on the unregistered release deed and it is a created document.

5. The learned counsel would further submit that the unregistered release deed was Notarised by an advocate by name Mr.A.Krishnamoorthy, having office at 136, Old No.98, Gandhi Road, Salem. He further contended that New D.No.136, was allotted only in the years 2008 and 2009, but, in the release deed, said to have been executed on 20.03.1986, the new door number is referred, which is known to the accused through an information received from Salem Corporation dated 16.06.2015 under the Right to Information Act.

6. It is further submitted that the defacto complainant has filed a suit in O.S.No.137 of 2010 before the District Munsif Court, Salem, seeking for declaration of his title over the property and he also filed another suit in O.S.No.213 of 2010 before the District Court, Salem, to declare the judgment passed in O.S.No.75 of 2010 as null and void. It is further submitted that the second accused has filed O.S.No.619 of 2014 before the learned Principal District Munsif, Salem against the defacto complainant and another for permanent injunction and in I.A.1181 of 2014, the learned Principal District Munsif, Salem, has granted an interim order in favour of the second accused. While so, the present complaint was given on 29.02.2016 with an ulterior motive.

7. The learned Government Advocate (Crl.side) would submit that the defacto complainant claims right over the property through sale deeds document Nos.4361 of 1957, 6554 of 1961, 6555 of 1961 and 2040 of 1966 dated 21.03.1966. But the accused claim right over the property only based on the document registered in the year 2008. He further submitted that the accused have committed forgery and therefore, the custodial interrogation of the accused is very much necessary.

8. Considering the above facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

9. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned Judicial Magistrate No.II, Salem, on each of them executing 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 learned Magistrate concerned and on further condition that the first petitioner shall appear before the respondent police daily at 10.00a.m. until further orders and the petitioners 2 & 3 shall appear before the respondent police as and when required for interrogation. The petitioners shall comply with the condition stipulated under Section 438 Cr.P.C.

scrupulously.

10.The petitioners shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail stands dismissed.

13.04.2016

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