



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

Wednesday, the Twenty Seventh day of January Two Thousand Sixteen
PRESENT

The Hon`ble Ms.Justice V.M.VELUMANI

CRL OP(MD) Nos.19370 and 19872 of 2015

1 L. PRABHAKAR
2 L. ANNADURAI
3 L. CHELLATHAI
4 L. JEYAGAR
5 L. MANOHAR
6 L. SUDHAKAR

... PETITIONERS/ACCUSED No. 1 to 6 IN
BOTH PETITIONS.

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
TUTICORIN DISTRICT
CR.NO.34 OF 2015.
CR.NO.36 OF 2015

... RESPONDENT / COMPLAINANT IN
BOTH PETITIONS

For Petitioner : MR.ABUDUKUMAR RAJARATHINAM FOR M/S.G.PRABHARI Advocate
IN BOTH PETITIONS

For Respondent : MR.P.KANNITHEVAN Govt. Advocate (Crl. Side)
IN BOTH PETITIONS

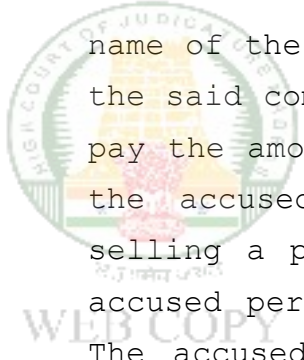
For Intervenor : MR.A.D.JEGADISH CHANDIRA, IN BOTH PETITIONS.

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

ORDER : The Court Made the following order :-

The petitioners, who are arrayed as Accused Nos.1 to 6 apprehend arrest at the hands of the respondent police for the offences punishable under Sections 406, 409 and 420 of IPC, in Crime Nos.34 and 36 of 2015 respectively, on the file of the respondent police and hence, seek anticipatory bail.

2. The case of the prosecution is that the petitioners are the Directors of M/s.Shanmugam Traders Private Limited and they are carrying the business of processing and trading of pulses as well as grains on whole sale basis. The defacto complainant is importing pulses from Australia, Canada and Russia and sold the goods to M/s.Shanmugam Traders Private Limited. The defacto complainant had supplied pulses and grains on various dates on credit basis, for which, the petitioners had not paid the amount and moreover, some of the commodities supplied by the defacto complainant were stored in Tamil Nadu Ware Housing Corporation, Tuticorin. Subsequently, the accused persons obtained certificate in the

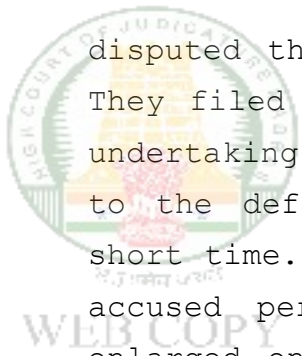


name of their family members. Based on the said certificate, by pledging the said commodities, they availed loan from the IDBI Bank. They did not pay the amounts due to the defacto complainant and the cheques issued by the accused persons were dishonoured on presentation and even after selling a portion of the goods supplied by the defacto complainant, the accused persons did not pay the amounts due to the defacto complainant. The accused persons by obtaining warehouse certificate in their names, even though the goods were purchased in the name of M/s. Shanmugam Traders Private Limited, by pledging the same with the IDBI Bank, borrowed monies, but did not pay the amounts due to the defacto complainant and thereby, cheated the defacto complainant as well the Bank. Hence, the cases have been registered for the offences stated above.

3. The case of the petitioners are that there was no dispute with regard to the payments against various invoices raised by the defacto complainant, for the supply of commodities. Since the commodities supplied by the defacto complainant is substandard, the petitioners requested the defacto complainant to adjust the payments towards future consignment of commodities, after reconciliation and the same was accepted by the defacto complainant also. Subsequently, the defacto complainant, without adjusting the loss incurred by the petitioners, had started encashing the cheques, as such the petitioners were constrained to issue stop payments. The defacto complainant issued notice in this regard. The petitioners sent a reply agreeing to pay the amounts in monthly instalments.

4. The learned counsel for the petitioners submitted that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. He further submitted that the third petitioner is 70 years old lady and she is the mother of the petitioners and she has nothing to do with the alleged offences.

5. The learned counsel for the Intervenor submitted that the goods were supplied to the petitioners' company on credit basis. The petitioners fraudulently obtained certificates from the Tamil Nadu Warehousing Corporation, as though the goods belong to them and with an intention to cheat the defacto complainant and the Bank, they pledged the goods to the IDBI Bank and borrowed money. The petitioners admitted the amount due to the defacto complainant and at no point of time, they



disputed the quantum of the amount and due to the defacto complainant. They filed an affidavit of undertaking on 08.10.2015 before this Court, undertaking to pay the amount in monthly instalment and paid Rs.1 crore to the defacto complainant and agreed to settle the account within a short time. On such assurance only, this Court granted bail to the other accused persons and they were also enlarged on bail. After being enlarged on bail in November, 2015, the petitioners have not taken any steps to settle the account and cheated the defacto complainant. The learned counsel for the Intervenor further submitted that the defacto complainant filed a petition to cancel the bail granted by this Court.

6. The learned Government Advocate (Criminal side) submitted that the petitioners created a fraudulent warehousing certificate, as though they are the owners of the goods, but the same were purchased by M/s.Shanmugam Traders Private Limited. Based on the said certificate, they have pledged the goods with IDBI Bank and borrowed monies. The respondent police is collecting materials from the officials of Warehousing as well as from the IDBI Bank. If the petitioners are granted anticipatory bail, they will tamper with the evidence and the investigation will be hampered.

7. Considering the nature of serious allegations levelled against the petitioners that they have fraudulently obtained warehouse certificate and pledged the goods with the IDBI Bank and borrowed money and cheated the defacto complainant, this Court is not inclined to grant anticipatory bail to the petitioners. Hence, the Criminal Original Petitions are dismissed.

Sd/-

27/01/2016

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

TO

1 THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH, TUTICORIN DISTRICT,
2 THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.G.PRABHARI Advocate SR.No.5640

+2CC to MR.A.D.JAGADISH CHANDIRA, Advocate, SR.No. 5540

ORDER

IN

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Date :27/01/2016