



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

Monday, the Twenty Ninth day of August Two Thousand Sixteen

PRESENT

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

CRL OP(MD) No.13292 of 2016

1 A.P.SUNDARI
2 P.RAMESH
3 R.PUNITHA

... PETITIONERS /ACCUSED No. 1 to 3

Vs

THE SUB INSPECTOR OF POLICE,
OTHAKADAI POLICE STATION, OTHAKADAI,
MADURAI.

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.A.HAJA MOHIDEEN Advocate

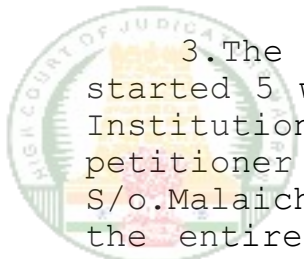
For Respondent : M/S.P.KANNITHEVAN Govt. Advocate (Crl. Side)

PETITION 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 3, apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 406, 420 and 506(i) of IPC, in Crime No.113 of 2016, on the file of the respondent police and hence, seek anticipatory bail.

2.The case of the prosecution is that the petitioners are doing Real Estate business and the defacto complainant entered into agreement of sale with the petitioner to purchase the Plot No.4-A and 6 measuring to an extent of 6 cents 2818 sq.ft., and received a sum of Rs.2,50,000/- from the defacto complainant. The petitioners agreed to execute the sale deed within 6 months. Subsequently, they informed that the plots are required for their personal use and informed the defacto complainant that they will sell some other plots to the defacto complainant. The defacto complainant did not agree for the same. The petitioners agreed to return the money within one year and A3 handed over original documents of Plot Nos.4-A and 6 and executed the loan agreement. The first petitioner and one Malaichamy signed as witness. Subsequently, the defacto complainant came to know that the petitioner sold the plots to some other third party. When the same was questioned by the defacto complainant, the petitioners threatened the defacto complainant with dire consequences. On complaint, case has been registered for the above said offences.



3.The case of the petitioners is that in the year 2012 they started 5 women self-help group and availed loan from the Financial Institution for its members. For repayment of the loan, the first petitioner borrowed a sum of Rs.37,000/- from one Raja, S/o.Malaichamy in the month of May 2012. The first petitioner repaid the entire amount on 25.12.2014. The said Malaichamy and defacto complainant used to introduce the buyers to the first petitioner for Real Estate Business and used to receive commission. On 04.08.2015 at 06.30 p.m., when the first and second petitioners are at home, the defacto complainant got the original sale deed dated 09.06.2014 from the first petitioner for taking Xerox copy. On the same day at about 7.30 p.m., he and one Malaichamy in a drunken mood unlawfully trespassed into the house of the first petitioner and threatened the petitioners 1 and 2 to sign in the stamp paper and demanded a sum of Rs.50,000/- and forcibly took their signature in the blank stamp papers. On 05.08.2015 at about 11.30 a.m., the first petitioner gave a complaint to the respondent police. The respondent police did not register the case. The first petitioner filed Crl.O.P(MD)No.17286 of 2015 for a direction to register the case. This Court, by the order dated 07.09.2015 directed the respondent Police to expedite the enquiry and follow the dictum laid down in Lalitha Kumari Vs. Govt. of U.P. & others (2013(4) Crimes 243 (SC) and register a case, if any cognizable offence is made out. In spite of the same, the respondent police did not register the case. While so, the first petitioner received summons in respect of the present case in Cr.No.113 of 2016. The respondent police in collusion with defacto complainant registered false case. The petitioners are innocent and they have not committed any offence as alleged by the prosecution.

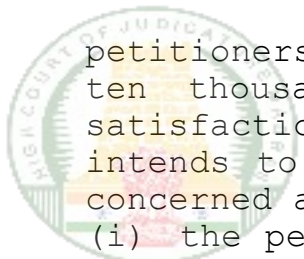
4.The learned counsel for the intervenor reiterated the averments made in the complaint and submitted that respondent police conducted enquiry on the complaint given by the first petitioner and the same was closed as false and prayed for dismissal of Criminal Original Petition.

5.The learned Government Advocate (Crl.side) submitted that on complaint case has been registered and investigation is pending. In the complaint given by first petitioner enquiry was conducted and closed.

6.Considered the rival submissions.

7.The contention of the learned counsel for the petitioners is that the respondent police did not take any action on the complaint given by the first petitioner in spite of the order of this Court, dated 07.09.2015 has no merits as the learned Government Advocate submitted that complaint of the first petitioner was enquired into and closed the same as 'mistake of fact'.

8.In view of nature of allegations made against the petitioners and also considering the fact that this is a case and case in counter and the complaint given by the first petitioner on 05.08.2015 is also pending enquiry and the custodial interrogation of the petitioners is not required, this Court is inclined to grant anticipatory bail to the petitioners, with certain conditions. Accordingly, they 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 learned Judicial Magistrate, Melur, on condition that each of the



petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(i) the petitioners shall report before the respondent Police daily at 10.30 a.m. until further orders.

(ii) the petitioners shall not tamper with evidence or witness either during investigation or trial.

(iii) the petitioners shall not abscond either during investigation or trial.

(iv) 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]**.

9.The Inspector of Police concerned is directed to send a compliance report to the office of the learned Government Advocate, as to whether the petitioners are complying with the conditions or not.

sd/-

29/08/2016

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

TO

- 1 THE JUDICIAL MAGISTRATE, MELUR
- 2 THE CHIEF JUDICIAL MAGISTRATE, MADURAI.
- 3 THE SUB INSPECTOR OF POLICE, OTHAKADAI POLICE STATION, OTHAKADAI, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.A.HAJA MOHIDEEN Advocate SR.No. 47955

+1cc to M/S.A.K.MANICKAM,ADVOCATE SR NO: 48006

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JA-SKS-RR/SAR.I/09.09.2016/3P:7C

ORDER

IN

CRL OP(MD) No.13292 of 2016

Date :29/08/2016