



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

Wednesday, the Third day of August Two Thousand Sixteen

PRESENT

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

CRL OP(MD) No.13765 of 2016

1 SARADHA
2 PANDIYARAJ
3 SUKUMARAN
4 CHANDRASEKARAN
5 RAJENTHIRAN
6 KRISHNAMOORTHY
7 PRASATH
8 MUTHU RAKKU

... PETITIONER / ACCUSED NO'S 1 TO 8

Vs

STATE REP.BY,
THE INSPECTOR OF POLICE
TOWN POLICE STATION,
SIVAGANAI DISTRICT.
CRIME NO.516 OF 2016

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.V.SASIKUMAR Advocate

For Respondent : MR.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 8, apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 143 and 420 I.P.C., in Crime No.516 of 2016 on the file of the respondent police and hence, seek anticipatory bail.

2. The case of the prosecution is that the land in Survey No.139/2, situated at Muthupatti, Arasarani Group, Sivagangai, belongs to the *de-facto* complainant and her sister Lakshmi. While so, the petitioners 1 to 3 have executed a Power of Attorney on 09.04.2014 appointing the fourth petitioner as their Power Agent to deal with the property, as if they are the absolute owners of the property and thereby, cheated the *de-facto* complainant. On complaint, a case has been registered for the offences stated above.

3. The case of the petitioners is that the property in Survey No.139/2 originally belonged to one Rengaraj and Ramaraj. The *de-facto* complainant is one of the daughters of the said Rengaraj and the petitioners 2 to 4 are the sons of Ramaraj and the first

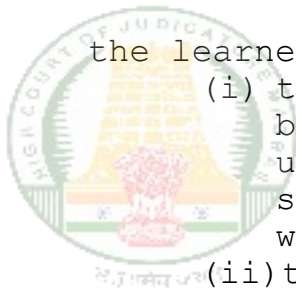


petitioner/A1 is the wife of one Kamatchi, who is the eldest son of Ramaraj. Except Survey No.139/2, all other properties were sold by the father of the *de-facto* complainant to the husband of the first petitioner in the year 1974. While so, the *de-facto* complainant and her sister without knowledge of the petitioners by suppressing the real facts, had obtained a Patta in their favour. The petitioners 1 to 4 filed a petition before the Revenue Divisional Officer, Sivagangai, for cancellation of the said Patta and the same is pending for adjudication. In the meanwhile, the *de-facto* complainant also approached the District Registrar, for cancellation of the power deed and the same was disposed of directing the *de-facto* complainant and the petitioners 1 to 4 to approach the appropriate Civil Court. The petitioners 1 to 4 filed a suit in O.S.No.109 of 2016 before the District Munsif Court, Sivagangai, to declare the 'A' schedule property in the plaint is their absolute property and for permanent injunction. In the said suit, the *de-facto* complainant entered appearance and subsequently, she has lodged a complaint making false allegations against the petitioners. Further, the fifth petitioner was working as Sub-Registrar, Sivagangai and the sixth petitioner is a document writer and the petitioners 7 and 8 are only attesting witnesses in the power deed and they have nothing to do with the alleged offence.

4. The learned counsel for the petitioners submitted that the petitioners 1 to 4 and the *de-facto* complainant have equal share in the property in question and patta proceedings are pending before the Revenue Divisional Officer, Sivagangai and the petitioners 1 to 4 filed O.S.No.109 of 2016 before the District Munsif Court, Sivagangai, for declaration and permanent injunction against the *de-facto* complainant and others in respect of the disputed property and other properties. He further submitted that the petitioners 1 to 4 are ready and willing to execute a fresh Power of Attorney clarifying their share in Survey No.139/2 and therefore, prayed for anticipatory bail in favour of the petitioners.

5. The learned Government Advocate (Criminal side) submitted that the *de-facto* complainant is the owner of the property. The petitioners 1 to 3 appointed the fourth petitioner as their Power Agent to deal with the entire property. On complaint, the case has been registered and the investigation is going on.

6. Considering the facts and circumstances of the case and also considering the relationship between the petitioners 1 to 4 and the *de-facto* complainant and pendency of the patta proceedings before the Revenue Divisional Officer, Sivagangai, 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 No.I, Sivagangai, 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 each 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 1 to 4 and 6 to 8 shall report before the respondent Police daily at 10.30 a.m. until further orders and the fifth petitioner shall report before the respondent police as and when required for interrogation;
- (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]**.

7. 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/-
03/08/2016

/ TRUE COPY /

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

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TO

- 1 THE JUDICIAL MAGISTRATE NO.I, SIVAGANGAI
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, SIVAGANGAI DISTRICT
- 3 THE INSPECTOR OF POLICE, TOWN POLICE STATION,
SIVAGANGAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.A.MOHAN Advocate SR.No.41787

GJM/NGM/MP/SAR(I)/8.8.16-3P-6C

ORDER
IN
CRL OP(MD) No.13765 of 2016
Date : 03/08/2016