



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

Thursday, the Fifteenth day of December Two Thousand Sixteen

PRESENT

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL OP(MD) Nos.22126 and 22221 of 2016

1 INBARAJALINGAM
2 JAFAR ALI
3 MAHESH KUMAR

... PETITIONERS/ACCUSED IN
CRL OP(MD) No.22126 of 2016

1 PALLAVI
2 N.R.K.SELVARATHNAM
3 CHIRANJEEVIRATHNAM
4 VIJAYALAKSHMI

... PETITIONERS/ACCUSED IN
CRL OP(MD) No.22221 of 2016

Vs

STATE REPRESENTED BY

1 THE SUB INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
VIRUDHUNAGAR.

2 RAMESH

... RESPONDENT/DEFACTO COMPLAINANT
IN BOTH THE PETITIONS

For Petitioner :M/S.AJMAL ASSOCIATES,Advocate IN BOTH THE PETITIONS

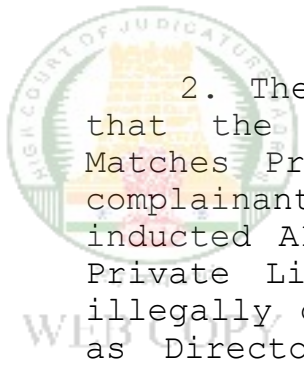
For First Respondent :MR.P.KANDASAMY,Govt. Advocate (Crl. Side)
IN BOTH THE PETITIONS

For Second Respondent: MR.B.SARAVANAN, Advocate in both the petition

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

ORDER : The Court Made the following order :-

The petitioners/A1 to 7, who apprehend arrest at the hands of
the 1st respondent Police for the alleged offence punishable under
Sections 465, 468 and 471 of IPC., in Crime No.17 of 2016, seek
anticipatory bail.

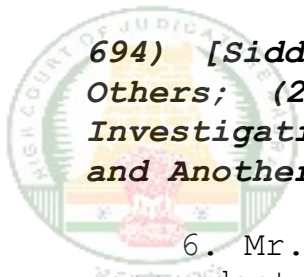


2. The case of the prosecution / defacto complainant / R2 is that the petitioners claiming Directorship of M/s.Rajarathinam Matches Private Limited by forging the signature of the defacto complainant, as if he convened the Board Meeting on 25.11.2016 and inducted A1/ Pallavi, as Director of said M/s.Rajarathinam Matches Private Limited and thereafter, on 11.08.2016, the said accused illegally convened the Board Meeting and inducted the petitioners, as Directors of the said Company and with the help of forged documents registered Form DIR 12 related to the change of Directors, before the Registrars of Companies and a case in Crime No.17 of 2016 was registered by the first respondent Police, on the basis of the complaint, dated 07.11.2016 of the second respondent / defacto complainant against the petitioners, for the offences punishable under Sections 465, 468 and 471 of IPC.

3. Mr.M.Ajmal Khan, the learned Senior Counsel appearing for the petitioners contends that the second respondent / defacto complainant and one Ganesh S/o.Rajamalai Nadar are the employees of the Companies, who are inducted as Directors of the Company and the wife of Rajarathinam viz., Mrs.Padma is also a Director of the Company, who made the second respondent / defacto complainant, a loyalist of Mr.Rajarathinam, who is an eldest brother of the accused N.R.K.Selvarathinam and accused Chiranjeevirathnam in this case and the dispute arose between the said brothers in respect of the properties left behind by their father and the said Rajarathinam indulged in mismanagement of the Company. It is further contended that the petitioners were inducted as Directors of the Company by Resolution dated 25.07.2016 and 11.08.2016. Irked by the petitioners holding majority shares of the company, the second respondent, at the instance of the said Rajarathinam, had preferred the present complaint with motive, which is abuse of process of law.

4. The learned Senior Counsel for the petitioners further argues that if at all the defacto complainant is aggrieved that the Resolutions of the Board have not been properly made or there is any illegality as to the induction of the petitioners, as Directors of the Company, he ought to have filed appropriate application and seek their remedy, as contemplated under the Companies Act. The Earlier anticipatory bail application filed by the petitioners was dismissed by the learned Principal District and Sessions Judge, Virudhunagar at Srivilliputhur. The Senior Counsel appearing for the petitioners denies the contention of the second respondent stating that there is no forgery or falsification of the records as contended by the second respondent in this case.

5. Adding further, the learned Senior Counsel for the petitioners contends that the petitioners have not indulged in any fabrication nor forged any signature, but in fact the second respondent convened the meeting of the Board and also taken part in the same. The Learned Senior Counsel for the Petitioners to lend support to his contention 'in respect of arresting the accused and also granting and rejecting of anticipatory bail. ' seeks in aid of the decisions of the Hon'ble Supreme Court reported in **(2011 (1) SCC**



694) [Siddharam Satlingappa Mhetre Vs. Stawte of Maharashtra and Others; (2012 (1) SCC 40) Sanjay Chandra Vs. Central Bureau of Investigation and (2014 (8) SCC 273 Arnesh Kumar Vs. State of Bihar and Another.

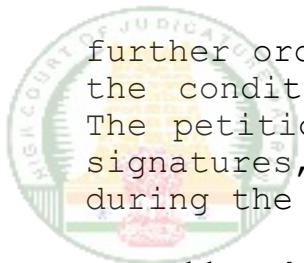
6. Mr.B.Saravanan, the learned counsel appearing for the second respondent / defacto complainant would submit that the petitioners forged the signature of the defacto complainant, created documents and convened Board meeting with an intention to take over the Management of the said M/s.Rajarathinam Matches Private Limited illegally and thereby captured its shares. The learned counsel appearing for the defacto complaint vehemently argues that the accused Pallavi and other petitioners were inducted by forging the signature of the second respondent to convene the Board Meetings and also the induction of the said accused Pallavi, as Director of the said Company and uploading the said fact before the Registrars of Companies, on the basis of the false documents created by the petitioners herein and therefore prays for dismissal of the petition for anticipatory bail.

7. Mr.P.Kandasamy, the learned Government Advocate (crl.side) appearing for the first respondent would submit that the first respondent that during the course of investigation found that the petitioners forged the signature of the defacto complainant, created documents and convened Board meeting with an intention to take over the Management of the said M/s.Rajarathinam Matches Private Limited illegally and thereby captured its shares.

8. I have carefully considered the submissions made by the learned Senior Counsel for the petitioners, the learned counsel appearing for defacto complainant / R2 and the learned Government Advocate (crl.side) appearing for R1 and also perused the materials available on record.

9. It is admitted facts that Rajarathinam Matches Private Limited at Sivakasi is incorporated under the Companies Act. The said Company was holding 11.09% of shares of Standard Fire Works Private Limited with voting right. The defacto complainant / R2 was serving as Director of the above said Concern from 09.10.2003 onwards and likewise one Ganesan S/o.Rajamani Nadar was also serving as Director of the said Company. The charge in respect of the petitioners herein are based on only records.

10. Considering the above facts and circumstances of the case, I am inclined to grant anticipatory bail to the petitioners, with certain conditions. 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, Virudhunagar, on condition that each 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 the petitioner shall report before the respondent police daily at 10.00 a.m., until



further orders, for interrogation. The petitioner shall comply with the condition stipulated under Section 438 Cr.P.C., scrupulously. The petitioners should not refuse to furnish by their writings and signatures, if required by the first respondent for comparison, during the investigation.

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

sd/-

15/12/2016

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

TO

1 THE JUDICIAL MAGISTRATE NO.II,VIRUDHUNAGAR.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

3 THE SUB INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, VIRUDHUNAGAR.

4 THE ADDITIONAL PUBLIC PROSECTUOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+2. CC'S to M/S.B.SARAVANAN, Advocate SR.No.81388

+1 CC TO M/S.AJMAL ASSOCIATES, ADVOCATE IN SR.NO.81112

MPK

CSL/SKS-RR/SAR-I/20.12.2016: 4P/8C

ORDER

IN

CRL OP(MD) Nos.22126 and 22221 of 2016

Date :15/12/2016