



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

Tuesday, the Fifth day of July Two Thousand Sixteen

PRESENT

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

CRL OP(MD) No.7775 of 2016

1 RAJAMUTHUKUMARASAMY
2 GANDHIMATHI MUDALIAR
3 MURUGANANDAM
4 MADESWARA PRASAD
5 KARUPPASAMY

... PETITIONERS/ACCUSED NOS.1 TO 5

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
TIRUNELVELI,
TIRUNELVELI DISTRICT.
(IN CRIME NO.13 OF 2016)

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.J.SULTHAN BASHA, Advocate for
M/S. R.CHANDRA SEKAR Advocate
For Respondent : M/S.P.KANNITHEVAN,
Government Advocate (Crl. Side)
For Intervenor : M/S.R.ANAND

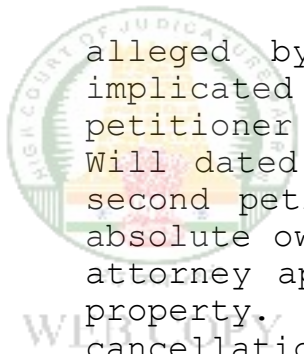
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for an alleged offence punishable under Sections 465,468,471, 420 r/w. 120 IPC in Crime No.13 of 2016, seek anticipatory bail.

2. The case of the prosecution is that the defacto complainant is the owner of the property in question and the same has been bequeathed by her father by the Will dated 08.02.1998. While so, the first petitioner who is the brother of the defacto complainant created forged will dated 03.05.1999 and based on that executed a power of attorney appointing the third petitioner as a power agent to deal with the property. On complaint, a case has been registered against the petitioners.

3. The learned counsel for the petitioners submitted that the petitioners are innocent and they have not committed any offence as



alleged by the prosecution and their names have been falsely implicated in this case. He further submitted that the first petitioner is the elder brother of the defacto complainant. By the Will dated 03.05.1999 their father bequeathed the property to the second petitioner. Based on the Will the second petitioner become absolute owner. The second petitioner as a owner executed a power of attorney appointing third petitioner as his agent to deal with the property. The defacto complainant filed a petition for cancellation of the joint patta before the Revenue Divisional Officer which was dismissed. Against that, she initiated civil proceedings.

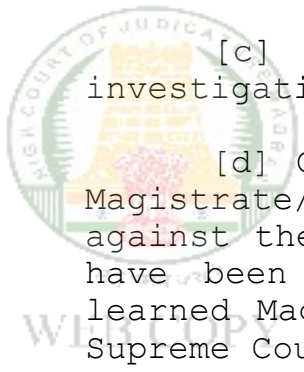
4. The learned counsel for the intervenor submitted that the first petitioner is the elder brother of defacto complainant and their father by registered Will dated 08.02.1998 bequeathed the property to the defacto complainant, her sister K. Chandra and brother T.K. Thiruvalluvan. After death of the father, they get patta in their favour and partitioned the property at Muthur Village among themselves and property at NGO colony is enjoyed by them jointly. While so, the first petitioner who is their brother forged the signature of their father and fabricated the document. Based on the fabricated document they are trying to deal with the property and prayed for dismissal for the petition.

5. The learned Government Advocate (Crl. Side) submits that the investigation of the case is pending. He further submitted that the defacto complainant and the petitioners are claiming the property by two different Will dated 08.02.1998 and 03.05.1999 executed by the father of the defacto complainant and first petitioner.

6. Considering the facts and circumstances of the case and also considering the fact that execution of two Will dated 08.02.1998 and 03.05.1999 and that the proceedings with regard to patta is pending before the competent Civil Court, the custodial interrogation of the petitioners is not necessary. Hence, I am inclined to grant anticipatory bail to the petitioners. Accordingly, the petitioners 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, Thirunelveli on condition that each of the petitioner 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:

[a] the first petitioner shall report before the respondent police as and when required for interrogation and the petitioners 2 to 5 shall appear before the respondent Police daily at 10.00 am until further orders.

[b] the petitioners shall not tamper with evidence or witness either during investigation or trial.



[c] the petitioners shall not abscond either during investigation or trial.

[d] 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].

sd/-
05/07/2016

/ TRUE COPY /

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

TO

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

+1. CC to M/S R.CHANDRA SEKAR Advocate SR.No.34985
RL/6C/3P/ARK/PV/SARI/20/7/2016

ORDER
IN
CRL OP(MD) No.7775 of 2016
Date :05/07/2016