



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

Friday, the Fifth day of August Two Thousand Sixteen

PRESENT

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

CRL OP(MD) No.9723 of 2016

1 K. MUTHUKUMAR

2 K.CHELLAM

... PETITIONERS/ACCUSED 1 & 2

Vs

STATE REPRESENTED BY THE SUB INSPECTOR OF POLICE

KADUPATTI POLICE STATION, MADURAI DISTRICT.

IN CRIME NO. 112/2016

... RESPONDENT/COMPLAINANT

For Petitioner : M/S M.P.DHAMODARAN Advocate

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

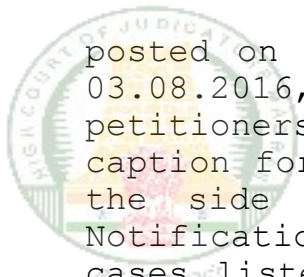
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who are arrayed as Accused Nos.1 and 2 apprehend arrest at the hands of the respondent police for the offences punishable under Sections 406 and 420 IPC, in Crime No.112 of 2016, on the file of the respondent police and hence, seek anticipatory bail.

2.The case of the prosecution is that the first petitioner is the owner of the property in question and he agreed to sell the same to the de facto complainant and his friend namely one Ramesh for a total sale consideration of Rs.47,00,000/- and received a sum of Rs.14,00,000/- on 23.05.2015 as advance and entered into a agreement of sale. Subsequently, on various dates, he received Rs.33,50,000/- as part of sale consideration. In spite of repeated demands made by the de facto complainant and Ramesh, the first petitioner failed to execute the sale deed. Thereafter, the first petitioner gave two cheques for Rs.33,50,000/-. On presentation, both the cheques were returned as signature differs. The first petitioner with an intention to cheat the de facto complainant and Ramesh, gave the cheques with forged signature and failed to return the amount nor executed a sale deed. On complaint case has been registered for the above said offences.

3.When the Criminal Original Petition was taken up for hearing on 14.07.2016, it was represented on the side of the petitioners that the first petitioner will settle the issue and also sought for adjournment and accordingly the matter was posted on 28.07.2016 and an interim direction was given to the effect that the respondent police not to arrest the petitioners till then. On 28.07.2016, the learned counsel for the petitioners sought time for settling the amount of Rs.33,30,000/- and accordingly the matter was



posted on 03.08.2016, but the interim order was not extended. On 03.08.2016, there was no representation on the side of the petitioners and therefore this petition is posted today under the caption for dismissal and even today, there is no representation on the side of the petitioner. Therefore, as per the Registry's Notification No.103/JUDL/2016, dated 04.07.2016, notifying that the cases listed in the daily Cause list will be taken up for hearing without any adjournment and if there is no representation, such cases will be decided on merits, this petition is disposed of on merits on the basis of the materials on record and the arguments advanced by the learned Government Advocate (Criminal side).

4.In the petition it is stated that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. The de facto complainant and his friend Ramesh are having dispute and therefore they delayed the payment of balance of sale consideration and when the first petitioner approached them, they failed to pay the balance of sale consideration. Therefore, he gave two cheques as security and the same were returned on presentation. The de facto complainant threatened the first petitioner to return the amount. The first petitioner is willing to perform his part of the contract.

5.The learned Government Advocate (Criminal side) submitted that the petitioners cheated the de facto complainant to the tune of Rs.33,50,000/- and even after taking time for settlement, they did not settle the amount and prayed for dismissal of the petition.

6.Considering the facts and circumstances of the case and also considering the serious nature of allegation that the petitioners cheated the de facto complainant to the tune of Rs.33,50,000/- and even after taking two weeks time for settlement, they did not settle the amount, this Court is not inclined to grant anticipatory bail to the petitioners and accordingly this petition is dismissed.

sd/-

05/08/2016

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

TO

- 1 THE SUB INSPECTOR OF POLICE, KADUPATTI POLICE STATION,
MADURAI DISTRICT.
- 2 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

smn

JA-SK-SKN-SAR.I/12.08.2016/2P:3C

ORDER IN

CRL OP(MD) No.9723 of 2016

Date :05/08/2016