

Dond

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1461 OF 2016

Dilip Laxman Funde & Anr.	..Applicants
Vs.	
State of Maharashtra	..Respondent

WITH

CRIMINAL APPLICATION NO. 905 OF 2016

Deepak Shrinath Tripathi	..Applicant
--------------------------	-------------

Mr. Sachin Babulal Chandan for applicants.
Mr. R.M. Pethe, APP for State.
Mr. Vinayak Patil for applicant in APPP No.905 of 2016.

CORAM: A.S. GADKARI, J.

DATE : 6th April 2017.

P.C.

1] By an Order dated 23rd August 2016, the applicants were granted interim relief.

2] The first information report is lodged by Shri Deepak S. Tripathi alleging that the applicant No.1 being an Estate Agent gave him one room for valuable consideration for Rs.6 lakhs. At the relevant time the said room was standing in the name of Mahadev Palve. The applicants

took the amount and gave possession of the said room to the mother of the complainant. The applicant did not provide a copy of the agreement to the complainant. After two days from the date of taking possession of the said room, Smt. Padmabai Palve and her son Bhausahab Palve broke open the lock of the said room and took the possession of the room. When the complainant and his mother asked about the said act, they inform them that they will not give possession of the said room. The complainant thereafter requested the applicants to give documents of the said room such as agreement of sale pertaining to the said room, however, the applicant dodged the complainant for the same. After persuading the applicant No.1, he gave him property transfer receipt dated 9.7.2015. When the complainant enquired about the said document with Ulhasnagar Municipal Corporation, it was revealed that the said receipt was a bogus document. In the premise the first information report is lodged.

3] The learned counsel for the applicants submitted that, the applicant No.1 has acted only as an estate agent and has accepted the brokerage. During the course of argument, the learned Counsel for applicants also produced another copy of transfer receipt alleged to have been received from Ulhasnagar Municipal Corporation dated 9.7.2015 under the Right to Information Act and when the said receipt is tallied with

the forged or fabricated receipt which is already seized by police dated 9.7.2015, it found to be photo copy of the receipt seized by the police. It is to be noted here that, there is no authenticity about the fact that the receipt tendered in the Court today is received under the Right To Information Act. According to me, the applicant No.1 has committed further offence by tendering bogus receipt in this Court today. In view of the same, the Investigating Officer is hereby directed to look into the matter and take appropriate measures under the law. The said copy is duly signed by Advocate Shri Chandan for identification. The copy of the transfer receipt tendered today in the Court is handed over to the learned APP for onward transmission to the Investigating Officer.

4] During the course of investigation it has been revealed that the room in question still stands in the name of Smt. Padmabai M. Palve and her name is mutated in the Municipal record. The record of the Municipal Corporation seized by the police reveals that the property was never transferred in the name of complainant-Deepak Tripathi. That despite that transfer receipt in the name of complainant has been given by applicant No.1.

5] After taking into consideration the fact that the applicant No.1 has not only committed the act of cheating with the complainant who is a

poor person, but prima facie has also committed an offence under Section 467 of the Indian Penal Code. After taking into consideration the serious allegations against the applicant No.1, and the gravity of the offence, the applicant No.1 does not deserve to be granted pre-arrest bail. Accordingly, the pre-arrest bail to the applicant No.1 is rejected.

As far as the applicant No.2-Smt. Kiran Dilip Funde wife of the applicant No.1 is concerned, the record reveals that she has no role at all to play in the present crime and she is granted pre-arrest bail.

Hence the following Order:

(i) The application of pre-arrest bail of the applicant No.1-Dilip Funde is hereby rejected.

(ii) In the event of arrest in CR No.332 of 2016 registered with Central Police Station, Ulhasnagar, the applicant No.2-Smt. Kiran Dilip Funde shall be released on bail on her furnishing PR bond in the sum of Rs.15,000/- with one or two local sureties.

(iii) The application is partly allowed in the aforesaid terms.

6] In view of above Order, the Criminal Application No.905 of 2016 does not survive and the same is accordingly disposed off.

(A.S. GADKARI,J.)