

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Tuesday, the Fifth day of December Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

CRIMINAL ORIGINAL PETITION No.20453 of 2017

K.SUBHASHINI

[PETITIONER / ACCUSED]

Vs

THE STATE REP. BY, [RESPONDENT]
THE INSPECTOR OF POLICE,
CCB-II, LAND GRABBING SPECIAL BRANCH II,
TEAM 23, VEPEY,
CHENNAI-600 008.
CR.NO.133 OF 2015

For Petitioner : M/S.AL.GANTHIMATHI Advocate

For Respondent : MR. K.MATHAN, Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

This is the second anticipatory bail and the first anticipatory bail petition in Crl.O.P.No.13701 of 2017 was dismissed by this Court on 31.08.2017 by a detailed order, which is as follows:
On 07.08.2017, this Court passed the following order:

"On 31.07.2017, this Court passed the following order:

"This is a petition seeking anticipatory bail.

2 This petitioner sold plot no.5 measuring 2,640 sq. ft. to one Malarvannan on 16.08.1991 by a sale deed registered as Document No.6194 of 1991 in the Sub Registrar's Office, Ambattur. While so, this petitioner sold the same property to one Malliga by a sale deed dated 30.05.2011 registered as document no.5290 of 2011. Hence, on the complaint lodged by Malarvannan, the respondent police have registered a case in Cr. No.133 of 2015.

3 The learned counsel for the petitioner submitted that the petitioner is the owner of plot no.5 and also plot no.5-A and that she had sold plot no.5 to Malarvannan and plot no.5-A to Malliga.

4 However, the learned Additional Public Prosecutor submitted that in the sale deed of Malliga, the plot number is shown as 5 and not 5-A and hence, the petitioner's contention is wrong.

5 The learned counsel for the petitioner submitted that the petitioner is ready and willing to rectify the document but, Malliga is not cooperating and that she has been granted anticipatory bail by the Sessions Court.

6 In view of the above, the petitioner and Malarvannan are directed to be present before this Court on 07.08.2017 and the police is directed to produce to Malliga before this Court on 07.08.2017.

Post on 07.08.2017."

2 Pursuant to the aforesaid order, the parties are present with their respective counsel.

3 The learned counsel for Subhashini, the petitioner herein, submitted that if two weeks' time is granted, Subhashini would rectify the defects or inter alia transfer the land without encumbrance to Malarvannan, the de facto complainant.

4 Malliga is directed to file an undertaking affidavit before this Court stating that she will not cause any encumbrance or alienate the property in S.No.5 that has been purchased by her from Subhashini.

5 All the parties are directed to appear before this Court on 24.08.2017.

Post on 24.08.2017."

2. Despite the order passed by this Court, the petitioner has not taken any steps

to rectify the mistake, because the petitioner knowing full well that there is no plot 5-A has sold the plot to Malliga and now she is taking a specious plea that there are two plots, viz., plot no.5 and 5-A, when actually there is no plot no.5-A. The sale deed that was executed by the petitioner to Malliga shows the description of the property as plot no.5 and not plot no.5-A.

3. In view of the above, this Court is of the view that this is not a fit case to grant anticipatory bail to the petitioner as custodial interrogation of the petitioner is necessary.

In the result, this petition is dismissed.

2. Heard the learned counsel for the petitioner, learned counsel for the defacto-complainant and the learned Government Advocate (Cr1.Side).

3. The learned counsel for the petitioner and the learned counsel for the defacto-complainant submitted that they have arrived at an amicable settlement and they have also filed a Compromise Memo dated 05.12.2017, wherein, paragraphs 4 to 7, it is stated as follows:

" 4. The petitioner and the 2nd respondent respectfully submit that during the pendency of this petition for anticipatory bail, the Defacto Complainant has received sale consideration of Rs.7,07,520/- vide Demand Draft Nos.503115 and 503117 drawn on ICCI Bank, madhavaram Branch from the petitioner and has conveyed the property back to the petitioner K. Subashini and her son K.L. Kiran by registered sale deeds dated 30.11.2017. Apart from the sale consideration for which the said property has been conveyed to the petitioner and her son, the Defacto-Complainant has also received a sum of Rs.6,42,480/- vide Demand draft bearing No.503113 and 503114 dated 30.11.2017 issued by ICICI Bank, Madhavaram Branch from the petitioner.

5. As such the Defacto Complainant has received a total sale sum of Rs.13,50,000/- as full and final settlement from the petitioner and does not have any further claim or complaint against the petitioner.

6. Hence the Defacto Complainant prays that this Hon'ble Court may be pleased to record this memo and the entire proceedings in Cr.No.133 of 2015 on the file of the Central Crime Branch II, Chennai may be closed.

7. The parties above named pray that this Hon'ble Court may be pleased to record; this memo and direct closure of the proceeding in Crime No.133 of 2015 on the file of the Central Crime Branch (Vepey), Chennai and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice."

4. The learned counsel for the petitioner submits that the First Information Report in Cr.No.133 of 2015 may be quashed in view of Memo of Compromise.

5. The learned counsel for the defacto-complainant submitted that he is willing to withdraw the complaint.

6. Mrs.K.Subhashini/petitioner/accused and Mr.J.Malarvannan / respondent/defacto-complainant are present today and when enquired by this Court, the defacto-complainant submitted that he has no objection about the first information report itself being quashed.

9. In view of the above, the first information report in Cr.No.133 of 2015 on the file of the first respondent police is hereby quashed. The Memo of compromise shall form part of the order.

10. Since the first information report in Cr.No.133 of 2015 itself is quashed, no orders need be passed for granting anticipatory bail to the petitioner.

-sd/-
05/12/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, ALLIKULAM, CHENNAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
CCB-II, LAND GRABBING SPECIAL BRANCH II,
TEAM 23, VEPERY,
CHENNAI-600 008.

+1CC to M/S.AL.GANTHIMATHI Advocate on payment of necessary
charges SR NO.22134

CRL OP.20453/2017

Date :05/12/2017

MK:13/12/2017