

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2017

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.22737 of 2015

D. Meera

..Petitioner

Vs.

1. D. Karunakara Reddy

2. R.Srinivasan

3. State Rep. By

Inspector of Police,
Maraimalai Nagar Police Station,
Maraimalai Nagar.

... Respondents

PRAYER: Criminal Original Petition filed under Section 439(ii) of the Code of Criminal Procedure to cancel the order of anticipatory bail granted by this Court dated 15.05.2014 in Crl.O.P.No.11776 of 2014.

For Petitioner

: Mr.J.T.Rajasuriya

For Respondents

: Mr. C. Emalias

Additional Public Prosecutor for R3
Mr. R. Sasikumar for R1 and R2

ORDER

This Criminal Original Petition has been filed to cancel the order of anticipatory bail granted by this Court dated 15.05.2014 in Crl.O.P.No.11776 of 2014.

2. On the complaint lodged by Meera, the respondent police registered a case in Crime No.661 of 2013 on 24.09.2013 for the offences under Section 463, 465, 468, 471 and 420 IPC against Karunagara Reddy (A1), Srinivasan (A2), Vijayakumar Reddy (A3), Subarna (A4), Saravanan (A5), Nagaraj (A6), and Badrinath (A7).

3. It is the case of the de-facto complainant that her husband Pitchai was in real estate business and he was doing it along with Karunagara Reddy (A1) and Srinivasan (A2) was acting as a broker. The de-facto complainant's husband had acquired several lands in Chengalpatu area for real estate business. However, in the year 2007, he was afflicted by cancer and his health was deteriorating everyday. Therefore, the de-facto complainant handed over all the documents to Karunagara Reddy in trust, so that he can proceed with the real estate business and make payments to Pitchai. While so, Karunagara Reddy had managed to create a Power of Attorney dated 31.01.2007 in respect

of certain lands standing in the name of Pitchai infavour of one Nagaraj. According to the de-facto complainant, her husband Pitchai did not execute the Power of Attorney dated 31.01.2007. Pitchai died on 22.02.2007 in Kupuswamy Naidu Memorial Hospital, Coimbatore. After the death of Picahi, knowing well that he had died, Nagaraj used the Power of Attorney and transferred the properties in favour of his own brother on 13.03.2007. The accused also obtained a bogus death certificate as if Pitchai had died on 21.03.2007 in Royapettah Hospital, while actually Pitchai had died on 22.02.2007 in Kupu Swamy Naidu Memorial Hospital. On the strength of the Power of Attorney and the bogus death certificate, the accused dealt with the properties of Pitchai. Hence, the complaint and consequent FIR.

4. Karunagara Reddy and Srinivasan filed a Crl.O.P.No.25488 of 2013 for anticipatory bail, which was dismissed by this Court (S.Nagamuthu, J.,) by a detailed order on 28.01.2014. Thereafter, they filed second anticipatory bail petition in Crl.O.P.No.3359 of 2014, which was dismissed by this Court (S.Nagamuthu, J.,) on 24.02.2014. Srinivasan filed third anticipatory bail application in Crl.O.P.No.5505 of 2014 which was dismissed by this Court (S.Nagamuthu, J.,) on 17.03.2014. Thereafter, Srinivasan went to the Supreme Court in SLP.No.3549 of 2014, which was also dismissed on 06.05.2014. While so, Karunagara Reddy and Srinivasan filed Crl.O.P.No.11776 of 2014 in the

vacation Court, in which they have made the following averments.

".....

6. The petitioners submit that this is the first anticipatory bail application. No other application pending before this Court or any other Court.

....."

5. This Court (K.B.K.Vasuki, J.) granted anticipatory bail on 15.05.2014. Challenging the grant of anticipatory bail, the de-facto complainant has filed the present petition for cancellation of the anticipatory bail on the ground that the accused had obtained anticipatory bail by misrepresentation and suppression of facts.

6. Heard the learned counsel appearing for the de-facto complainant and the learned counsel appearing for the accused.

7. The learned counsel for the accused submitted that the accused are innocent persons and that during the hearing of anticipatory bail on 15.05.2014, the Court was informed orally that the earlier anticipatory bail applications have been dismissed. Therefore, this Court was aware of fact that the accused had earlier filed anticipatory bail applications despite which, this Court had granted anticipatory bail, and therefore there is no suppression.

8. Per contra, the learned counsel appearing for the de-facto complainant refuted the submission. This Court perused the order dated 15.05.2014 in Crl.O.P.No.11776 of 2014, wherein there is no reference to filing of previous anticipatory bail petitions by the accused. In the absence of any such findings, this Court cannot proceed under the assumption that the anticipatory bail was granted by the learned Judge, after being apprised of the dismissal of the earlier applications.

9. In the result, this is a case of clear suppression of facts. Hence, the anticipatory bail granted to the accused in Crl.O.P.No.11776 of 2014 dated 15.05.2014, deserves to be cancelled and accordingly, this petition is allowed and the anticipatory bail is cancelled. Hence, this Criminal Original Petition is allowed.

सत्यमेव जयते

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Index:yes/no
bri/pvs

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