

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 N. AUTHINATHAN

CRIMINAL ORIGINAL PETITION No.24683 of 2017

1 M.DHANAKUMAR
2 A.MUTHU
3 M.SHANTHAKUMAR

[PETITIONERS / ACCUSED]

Vs

STATE REPRESENTED BY ITS
THE INSPECTOR OF POLICE,
KALPAKKAM POLICE STATION,
KANCHEEPURAM DISTRICT.
CR.NO.162 OF 2017.

[RESPONDENT]

For Petitioner : M/S.S.VIJAYAKUMAR Advocate

For Respondent : MR. B.RAMESH BABU, Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioners seek anticipatory bail under Section 438 of Cr.P.C. for the alleged offences under Sections 420 of IPC r/w. 34 of IPC in Cr.No.162 of 2017 on the file of the respondent police.

2. Heard both sides.

3. The case of the prosecution is that totally there are three accused. It is alleged that the accused promised to purchase a property measuring 2 acres 10 cents for a sum of Rs.12,42,000/-. It is represented that Neelambal was the owner of the property and she executed sale deed through one Raju, who is her power of attorney. He produced the original consent letter which is said to have been obtained from Neelambal. Raju would sell the same in favour of the defacto complainant. On false representation, they received Rs.7 lakhs from the defacto complainant. Later, it has come to the notice of the defato complainant that Neelambal was dead long ago and the land to be sold to the defacto complainant was already sold to someone else by the legal heirs of the Neelambal. Thereafter, the defacto complainant insisted on repayment of Rs.7 lakhs. As they have evaded repayment, the complaint has been filed.

4. Learned Government Advocate (Crl.Side) appearing for the respondent submitted that during investigation, the petitioner has repaid a sum of Rs.1,50,000/- and for the remaining amount, sale

agreement was executed by the first petitioner in favour of defacto complainant.

5. Learned counsel for the petitioners submitted that no fraud has been committed by them and Neelambal, the original owner died after execution of power of attorney. Therefore, the power of attorney is not in a position to execute the sale deed in favour of defacto complainant. The legal heirs of the Neelambal have also not come forward to execute the sale deed. The first petitioner has repaid Rs.1,50,000/- and for the remaining amount, sale agreement was also obtained from the first petitioner by the defacto complainant.

6. Having regard to the nature of the allegation and the fact that the first petitioner has repaid a sum of Rs.1,50,000/- and he has also executed the sale agreement for the balance amount of Rs.7 lakhs and it is not stated that custodial interrogation of the petitioners is required and that petitioners are willing to cooperate with the investigating agency, this court is inclined to grant anticipatory bail to the petitioners subject to the following conditions :-

7. (i) Anticipatory bail is granted.

(ii) The petitioners is ordered to be released on bail in the event of their arrest or appearance before the learned Judicial Magistrate, Thirukazhukundram, within a period of fifteen days from the date of receipt of a copy of this order on each of them executing 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 said Magistrate.

(iii) The petitioners shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter, as and when required for interrogation.

-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 JUDICIAL MAGISTRATE,
THIRUKAZHUKUNDRAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KALPAKKAM POLICE STATION,
KANCHEEPURAM DISTRICT.

+1CC to M/S.S.VIJAYAKUMAR Advocate on payment of necessary
charges SR NO.22127

CRL OP.24683/2017

Date :05/12/2017

MK:13/12/2017