



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

Thursday, the Fifth day of October Two Thousand Seventeen

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PRESENT

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL OP (MD) No.10504 of 2017

C.S.RAJENDRAN ... SOLE ACCUSED/ PETITIONER

A.RAJENDRAN ... PETITIONER / INTERVENER

Vs

THE STATE OF TAMIL NADU
THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH, THOOTHUKUDI,
CRIME NO.32/2017 ... RESPONDENT

For Petitioner : M/S.P.PETHU RAJESH Advocate

For Respondent : MR.T.MOHAN Additional Public Prosecutor

For Intervener : MR.T.ANTONY ARUL RAJ Advocate

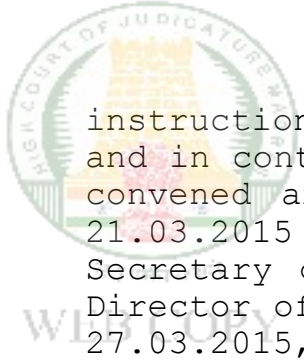
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 465, 469, 471 and 473 IPC in Crime No.32 of 2017 on the file of the respondent Police, seeks anticipatory bail.

2.The de facto complainant filed an intervening petition in CrI.M.P. (MD)No.7735 of 2017.

3.The learned counsel for the petitioner would submit that Tuticorin Educational Society, which is running Kamaraj College, Tuticorin, is a registered society under the Tamil Nadu Societies Registration Act on 01.03.1966. The petitioner was elected as a Secretary to the said Society as well as the Secretary of the said College Committee for the period from March 2012 to 21.03.2015 and thereafter, also he is continuing in the said posts by virtue of the General Body meeting held on 28.12.2015 for the period from 2015 to 2018. The Vice President namely, P.S.S.G.Divagar following the



instructions issued by the President of the Society namely, V.Elango and in contravening the provisions in the byelaw of the Society, has convened an Executing meeting and also a General Body meeting on 21.03.2015 and elected the de facto complainant / intervenor as the Secretary of the Society for the period from 2015 to 2018 and the Director of College Education, Chennai through his proceedings dated 27.03.2015, arbitrarily appointed the de facto complainant / intervenor as Secretary of the College committee. As per the byelaw of the Society, the Secretary alone is entitled to convene the General Body meeting and Executive meeting by giving 21 days and 7 days prior notice respectively to the members of the Society. A suit in O.S.No.79 of 2015 was filed before the learned Subordinate Judge, Tuticorin praying for permanent injunction to restrain the Tuticorin Educational Society representing its Secretary from conducting the General Body meeting and Executive Committee meeting scheduled to be held on 21.03.2015 and the petitioner's counsel appeared before the said Court and filed a memo stating that the petitioner will not convene any General Body or Executive Committee meetings and the same was recorded and the said suit is now pending. But the Vice President has proceeded his notice dated 26.02.2015 and convened both meetings on 21.03.2015 in violation of the byelaw and elected the de facto complainant / intervenor as Secretary of the Society.

4.He would further submit that Form No.VI and Form No.VII submitted by the complainant was returned and rejected by the District Registrar, Tuticorin and aggrieved by the said order, the complainant preferred a Writ petition in W.P.(MD)No.19710 of 2015 before this Court and the same is pending, in which, the petitioner got himself impleaded as the 4th respondent in the said proceedings dated 27.03.2015 of the Director of College Education, Chennai, appointing the complainant as Secretary of the College Committee was also challenged in a Writ petition W.P.(MD)No.3869 of 2016 before this Court and the same is pending. The petitioner filed O.S.No.21 of 2016 before the District Munsif Court, Tuticorin praying for declaration that the alleged election held on 21.03.2015 is null and void and the said suit is also pending. Amendment of byelaw made by the complainant was also rejected by the District Registrar, Tuticorin on 17.07.2016 and the same was challenged by the complainant in W.P.(MD)No.13144 of 2016 and is also pending before this Court. Based on the resolution recorded by the General Body meeting held on 28.12.2015 appointing the petitioner as Secretary of the Society and College Committee Form VII submitted by the petitioner was returned by the District Registrar stating that it will be considered only after the disposal of the Writ petition in W.P.(MD)No.19710 of 2015 and 13144 of 2016. Challenging the same, the petitioner has filed a Writ petition in W.P.(MD)No.7767 of 2017 and the same is also pending before this Court. Pending all the said proceedings, the de facto complainant has preferred the present complaint as if the petitioner had forged the seal of the Secretary and used it for filing false affidavit with forged documents before this Court. As on date, the election of the petitioner as Secretary



based on the General Body meeting held on 28.12.2015 was not questioned by the complainant and hence there could not be any allegations that he had forged the documents by using the seal of the Secretary and the fact remains that the de facto complainant is occupying the post illegally.

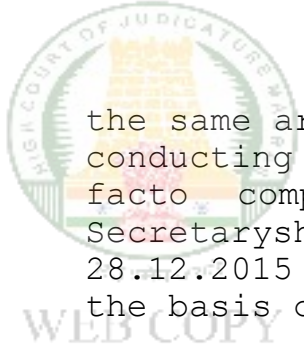
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5.The learned counsel for the de facto complainant / intervenor would submit that the de facto complainant / intervenor is the present Secretary and the General Body was convened on 21.03.2015 and he was selected as Secretary of the Society in the General Body meeting. Form Nos.VI and VII submitted by the de facto complainant were returned on the ground that the suit in O.S.No.79 of 2015 is pending before the Sub Court, Tuticorin and the petitioner / accused was holding the post of Secretaryship for the period around 20 years and he is continuously occupying the said post and when he was not elected to the post of Secretaryship, he started creating problem. The petitioner / accused created forged documents as if General Body meeting was convened as early as 28.12.2015 and he was selected as Secretary of the Society as well as the Secretary of the College committee. The petitioner / accused has not stated any single word to the convening of the General Body meeting held on 28.12.2015 and he was selected as Secretary in the above said Writ proceedings pending before this Court and also in the pending suit proceedings in the suit in O.S.No.21 of 2016, 27 of 2016, 105 of 2016 and 123 of 2016 before the concerned Court. According to the petitioner / accused, he was elected from 28.12.2015. However, Form VI and VII were submitted by him on 13.07.2017 he has created forged documents and produced the same before this Court and it requires custodial interrogation of the petitioner / accused and he forged the seal of the Secretaryship and used the same and hence, prayed for dismissal of this petition.

6.The learned Additional Public Prosecutor appearing for the respondent would submit on instruction that there is a rival claim of Secretaryship for the Society as well the College Committee by either side conducted General Body meeting of the Society on 21.03.2015 and 28.12.2015 respectively. The allegation of the de facto complainant against the petitioner is that he has created forged documents and filed the same before this Court in the pending proceedings and also in the suit proceedings before the concerned Court and while the de facto complainant is the Secretary of the said Society and also the College Committee the petitioner uses the seal of the Secretaryship stating as he is the Secretary of the Society and also the College Committee.

7.Perused the materials on record. Heard and considered the rival submissions made by either parties.

8.Both parties, the petitioner and the de facto complainant / intervenor are the rival claimants in respect of the post of Secretaryship of the registered Society and also the College Committee. It is an admitted fact that several suits were filed and



the same are pending before the concerned Civil Courts in respect of conducting the General Body meeting and also election of the de facto complainant as Secretary. The petitioner claims the Secretaryship on the basis of the General Body meeting held on 28.12.2015 and the de facto complainant claims the Secretaryship on the basis of the General Body meeting convened on 21.03.2015.

9.The learned counsel for the petitioner would submit that the General Body meeting dated 21.03.2015 is in violation of the provisions of the byelaws of the registered society.

10.The learned counsel for the de facto complainant / intervenor would contend that the tenure of 3 years expired in respect of the Secretaryship of the petitioner of the registered Society and as per the General Body meeting convened on 21.03.2015 he was selected as the Secretary of the said Society and also he was recognized as Secretary of the College Committee by the Director of College Education, Chennai. Hence, the claim of the Secretaryship by either parties is in subjudice before the competent Court.

11.The learned counsel for the de facto complainant / intervenor would contend that the documents produced before this Court in the Writ proceedings are false and fabricated by the petitioner herein. The Civil Court is the competent authority to decide the rival claim made by both parties in respect of the post of Secretaryship. The records produced by the petitioner before this Court cannot be decided as false documents at this stage since the proceedings are subjudiced before this Court in the Writ proceedings.

12.Considering the above facts and circumstances of the case and also considering the fact that the offence charged against the petitioner is based on records and also the claim of the Secretaryship is subjudiced before the competent Civil forums and the alleged falsification and forged documents is in respect of document filed before this Court in the Writ proceedings and the custodial interrogation of the petitioner is not required at this stage, this Court is inclined to grant anticipatory bail to the petitioner. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on the appearance, before the learned Judicial Magistrate No.III, Thoothukudi, on condition that each petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that the petitioner shall report before the respondent police daily at 10.00 a.m. The petitioner shall comply with the condition stipulated under Section 438 Cr.P.C., scrupulously.

13.The petitioner shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy is



made ready, failing which, the petition for anticipatory bail stands dismissed.

sd/-
05/10/2017

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

TO

1 THE JUDICIAL MAGISTRATE NO.III, THOOTHUKUDI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.

3 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, THOOTHUKUDI.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.P.PETHU RAJESH Advocate SR.No.32131

ORDER
IN
CRL OP(MD) No.10504 of 2017
Date :05/10/2017

MKV-CM-MSA-SAR 2/11.10.2017/5P-6C