



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

Tuesday, the Tenth day of October Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.13289 of 2017

1 N.S.ARUMUGAM,
2 RAJATHI AMMAL,
3 BHUVANADEVII,
4 PREM KUMAR,

... PETITIONERS/1 to 4 ACCUSED

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE,
THANDIKUDI POLICE STATION,
KODAIKANAL TALUK,
DINDIGUL DISTRICT.
(CRIME NO.90 OF 2017)

... RESPONDENT/COMPLAINANT

For Petitioners : MR.CHELLAPANDIAN, Senior Counsel for
MR.G.MARIAPPAN, Advocate

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

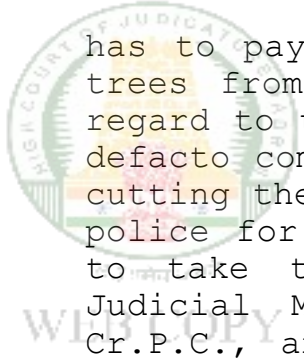
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 294(b), 506(i), 406 and 420 I.P.C in Crime No. 90 of 2017, seek anticipatory bail.

2. The case of the prosecution is that the defacto complainant and the petitioners had entered into an agreement to remove the silver oak tree from the petitioners' property. Since the petitioner did not co-operate with the defacto complainant to remove the tree standing on the petitioners' property, the defacto complainant lodged a complaint against the petitioners. Thereby, a case has been registered against the petitioners. Therefore, the petitioners filed this criminal original petition.

3.The learned senior counsel appearing for the petitioner submitted that the petitioners had entered into an agreement with the defacto complainant to remove some silver oak tree for a sum of Rs.1.5 crore on condition that every week, the defacto complainant



has to pay Rs.10,00,000/- for removal of trees. After removal of trees from the petitioner's property, there is some dispute with regard to the payment of amounts that the petitioners prevented the defacto complainant to enter into the petitioners' property and for cutting the trees. Initially, the defacto complainant approached the police for the above said allegation. Since the police has refused to take the complaint, the defacto complainant approached the Judicial Magistrate Court, Kodaikanal, under Section 156(3) of Cr.P.C., and on a direction of the Court below the complaint was registered against the petitioners in the above said crime. The defacto complainant lodged a complaint as if the occurrence is said to have been taken place on 09.06.2017. On perusal of the records, it is seen that even thereafter, the defacto complainant transported the tree from the petitioners' property to the business place. Hence, the entire complaint is fabricated against the petitioners.

4.The learned Senior counsel appearing for the petitioners contended that the action of the police authorities as well as the learned Magistrate is contrary to the well settled principle of law. When the matter relates to realm contract, the remedy available to the parties to workout their remedy is the competent civil forum. Secondly, the learned Magistrate had no power to order the investigating authority to complete the investigation, within a prescribed time limit and to file a charge sheet.

5. The learned Government Advocate (Crl.Side) appearing for the respondent, on instructions, would submit that based on the direction issued by the learned Magistrate, the law enforcing agency registered the FIR. However, the investigation is pending, and the matter is related to civil dispute.

6.Considering the facts and circumstances of the case, I am inclined to grant anticipatory bail to the petitioners. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of 15 days from the date on which the order copy is made ready, before the learned Judicial Magistrate Court, Kodaikanal, Dindigul District on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty five thousand only) each with two sureties each 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:

(i) the petitioners shall report before the respondent Police as and when required for the purpose of investigation.

(ii)the petitioners shall not tamper with evidence or witness either during investigation or trial.

(iii) the petitioners shall not commit any offence while on bail;



(iv) on breach of any of the aforesaid conditions, the petition for anticipatory bail stands dismissed.

sd/-
10/10/2017

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

TO

- 1 THE JUDICIAL MAGISTRATE,
KODAIKANAL, DINDIGUL DISTRICT
- 2 THE CHIEF JUDICIAL MAGISTRATE
DINDIGUL DISTRICT
- 3 THE INSPECTOR OF POLICE,
THANDIKUDI POLICE STATION, KODAIKANAL TALUK,
DINDIGUL DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

+1. CC to MR.G.MARIAPPAN Advocate SR.No.32464

ORDER
IN
CRL OP(MD) No.13289 of 2017
Date :10/10/2017

SMA/CM-MSA/SAR-4/12.10.2017:3P/6c