

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Eighth day of June Two Thousand Eighteen

PRESENT

The Hon`ble Mrs Justice S. RAMATHILAGAM

CRIMINAL ORIGINAL PETITION Nos.14107 & 14108 of 2018

and CRL.MP.NO.5347/2018

G.KALYANI,

[PETITIONER / ACCUSED IN
CRL.OP.14107/2018]

1 L.LAKSHMI NARASIMMAN

[PETITIONERS/ACCUSED IN

2 P.KARTHIKEYAN

CRL.OP.14108/2018]

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
S-12 CHITLAPAKKAM POLICE STATION,
CHITLAPAKKAM, CHENNAI-67.
CR.NO.82 OF 2018.

[RESPONDENT IN BOTH THE PETITIONS]

For Petitioner : M/S.V.BALAJI Advocate IN BOTH THE PETITIONS

For Respondent : MR. PUBLIC PROSECUTOR, IN BOTH THE PETITIONS

For INTERVENER : M/S.K.KARTHICK JOTHI, Advocate

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

ORDER : The Court Made the following order :-

The case of the prosecution as per the defacto Complainant one Chandra Sekaran is that he is the Power of Attorney of one Mohana, who is the owner of the property in Survey No.133/2B to an extent of 53 cents of property situated at Zamin Pallavaram having acquired the same from the legal heirs one Thanga Murugappa Naicker by way of release deed and thereafter by Power of Attorney, dated 21.12.2017 to him. By fabricating the patta, legalheir certificate one Kumar had given a Release Deed to one Kalyani and Rani Selvaraj in Document No.8186 of 2017 . The said Rani Selvaraj executed a registered Power of Attorney in favour of one Lakshmi Narashiman. When the defacto complainant verified the office of the Special Tahsildar, Pallavaram and Sub-Registrar, Pallavaram, he came to know all these documents are fabricated. The intervening petitioner also argued that he is also the owner of the property whereas the petitioners were encumbered the property of the defacto complainant by fabricating the documents.

2. In the earlier bail application filed by the petitioner Kalyani, the respondent police had argued that the petitioners by

fabricating the documents attempted to grab the property belonging to the Principal of the defacto complainant and strong objection was made by the prosecution for the release of the petitioners.

3. On the side of the petitioner it is vehemently argued that the petitioner in this Anticipatory Bail Application are also Owner of the Property in Survey No.133/2B and the petitioner's counsel brought to the notice of the Court that it is only the defacto complainant and his associates have fabricated to release the general power of attorney before the SRO, Pallavaram in document Nos.10090/2017 and 10091/2017 . It is the argument of the petitioner that only the Joint Commissioner has preferred a complaint and it is the defacto complainant and his associates fabricated the documents and got the documents registered before the officials. The proceedings of the Special Tahsildar also brought to the notice of the Court . It is also brought to the notice of the Court that in the "A" register, the survey Nos. in 133/1 and 2 stand in the name of Kullappa Naicker and Thanga Muruggappa Naicker and the patta issued by the revenue authorities is also of the year 21.10.76 as patta 6 and 7 in the name of Murugappa Naicker son of Kullappa Naicker.

4. The proceedings of the Special Tahsildar, Pallavaram was passed as "dated : 12.2017 " and in the reference 5 applications of Thiru.Govindaraju, dated 20.10.2017 and the signature of the Officer in the proceeding is found as 24.11.2018.

5. Hence, the above said proceeding of the Settlement Tahsildar also found to be an improper one which creates a lot of doubt. In the bail order of the Principal Sessions Court, Chengalpat, it is also observed that "similarly defacto complainants side also doubtful".

6. It is also the argument of the petitioner that in the said order of this Special Tahsildar Order was given for the grant of patta in the name of Dhanabakkiam Ammal and others without issuing notice to the legal heirs of Murugappa Naicker. It is also brought to the notice by the petitioner that the Sub-Registrar, Pallavaram issued Encumbrance Certificate, dated 15.12.2017 in the name of Mohana suppressing the two encumbrances made on 12.10.2017. It is also argued by the petitioner that the Tahsildar also issued a legal heir certificate for the death of one Kanniyappa Naicker, who died more than five decades ago.

7. The learned counsel for the petitioner's has argued that because of the act of the erring the officials the Special Tahsildar Settlement, Tmt.G.Sophia Jothi Bai and also the Sub-Registrar, Pallavaram, who registered the documents on 13.12.2017 and 21.12.2017 and the Tahsildar, Alandur who had issued legal heir certificate dated 14.11.2014 and also the Special Tahsildar Town and Survey Registrar, Pallavaram. The petitioners are put to mental agony because the officials have not acted and done their official duty in the proper and responsible manner by ascertaining the facts and enquiring the necessary parties who have also have the right in the

property .

8. The respondent has also verified the relevant documents and also the omission and irregularities committed by the revenue officials. The prosecution also recommended the transfer of the case for proper investigation by CCB to the Proper Wing.

9. It is also argued by the learned counsel for the petitioner's that the complaint preferred by the petitioner regarding the irregularities and issue of certificates by the officials and registering of the documents without ascertaining the fact regarding the ownership of the property, but the same was not properly dealt by the concerned Police Officials.

10. In view of the above said facts and circumstances of the case, this Court is inclined to grant Anticipatory bail to the petitioners.

11. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the concerned Magistrate, on the following conditions

(i) that each of the petitioners shall execute 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 respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned :

(ii) the petitioner in CrI.OP.No.14107 of 2018 is directed to appear before the Investigating Officer of CCB Cases once in a week and thereafter, as and when required by the Investigating Officer for interrogation and the petitioner in CrI.OP.No.14108 of 2018 shall appear before the Investigation Officer as and when required.

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

(iv) the petitioners shall not abscond either during investigation or trial.

(v) if the petitioners fail to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(vi) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners are released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in *P.K.SHAJI Vs. STATE OF KERALA [(2005)AIR SCW 5560]*.

(vii) If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A of IPC.

11. CCB Chennai is also directed to file a report regarding the investigation and action to be taken against the Government Officials viz., 1) Settlement Officer and 2) Sub-Registrar, Pallavaram, and also the officials, who refused to entertain the complaint preferred by the complainant, within a period of one month from the date of receipt of the copy of this order.

-sd/-
08/06/2018

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,
TAMBARAM.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
S-12 CHITLAPAKKAM POLICE STATION,
CHITLAPAKKAM, CHENNAI

4 THE SUB-REGISTRAR,
PALLAVARAM.

5 THE SPECIAL TAHSILDAR TOWN
AND SURVEY REGISTRAR, PALLAVARAM.

6 THE OFFICER INCHARGE,
CCB, CHENNAI.

+2 CC to M/S.V.BALAJI Advocate on payment of necessary charges-
Sr.10325

CRL OP.Nos.14107 & 14108/2018
and CRL.MP.NO.5347/2018

Date :08/06/2018

ths : 12.06.2018