

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Eighth day of February Two Thousand Eighteen

PRESENT

The Hon`ble Dr Justice G. JAYACHANDRAN

CRIMINAL ORIGINAL PETITION No.2946 of 2018

1 S.KUMARI, [PETITIONERS / ACCUSED]
2 S.NIRMALA,

Vs

STATE REP. BY, [RESPONDENT]
THE INSPECTOR OF POLICE,
D-5, SALAVAKKAM POLICE STATION,
KANCHEEPURAM DISTRICT.
CR.NO.20 OF 2018

For Petitioner : MR. YASHODVARADHAN, Senior Counsel for
M/S.R.VINAYAGA VISHNU Advocate

For Respondent : MR. C. IYYAPPA RAJ, Addl. Public Prosecutor

PETITION FOR BAIL 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners/A1 and A2 who were arrested on 20.01.2018 by the respondent police for the alleged offence under Sections 420, 143, 342, 294(b), 352 and 506(i) of IPC in Crime No.20 of 2018 on the file of the respondent police, seek bail.

2. According to the complaint given by one Lakshmanamoorthi, S/o Karthikeyan, the petitioners herein and others entered into an agreement regarding sale of immovable property to an extent of 30.69 acres for a sum of Rs.15,80,00,000/-. The payment was made in instalments, simultaneously, sale deeds were also executed in fragments to various persons. The last such transaction was on 21.03.2016 in respect of the balance extent of 4 acres and 17 cents, which was executed through two sale deeds. One in favour of the first petitioner to the extent of 1 acre 44 cents and another in favour of the second petitioner to the extent of 2 acres 73 cents. When the last two sale deeds were executed on 21.03.2016,

there was a balance of Rs.4 crores due from the buyers. When the defacto complainant and his cousin Mr.Thenthamilselvan executed the sale deed, one Magendira Salani[A7] and Sridhar(deceased) promised them that as soon as the sale deed is registered, the balance amount of Rs.4 crores will be paid to them. When the defacto complainant went to the house of Magendira Salani [A7] to collect the balance sale consideration of Rs.4 cores, he did not pay but threatened them saying Sridhar group are very dangers people, if they demand the balance, they may even eliminate them and their family. Thus, out of agreed sale consideration of Rs.15,80,00,000/-, only Rs.11,80,00,000/- has been paid. When the balance sale consideration of Rs.4 crores demanded by the defacto complainant, the purchasers/A1 and A2 (petitioners herein) and their henchmen threatened them with dire consequences.

3. While considering the bail petition filed by the accused persons before the trial Court, bail was granted for all the accused except the petitioners herein who are arrayed as accused 1 and 2 on the ground that investigation is still in the preliminary stage. Aggrieved by that, the accused persons have approached the District Court, which met with the same fate of dismissal for the reason that the petitioners were purchasers and beneficiaries of the transaction. Apart from non-payment of sale consideration, they have to do away the vendors and their family members.

4. The learned Senior Counsel appearing for the petitioners submits that it is a purely money transaction wherein non-payment of sale consideration is alleged belatedly. According to the complainant, the agreement was entered in the year 2015 and the same was completed in parts through various sale deeds after receipt of money through RTGS or by cash. From out of agreed sale consideration of Rs.15,34,50,000/-, admittedly, Rs.11,80,00,000/- paid. In respect of balance of Rs.4,00,00,000/-, though it is alleged that it was not paid and when demanded, they were threatened, the records would clearly reveal that the entire sale consideration was paid on the date of registering the document by RTGS. Hence, the allegation that the petitioners herein got property transferred in their names without paying sale consideration is false and the same could be obvious on the face of its records.

5. Per contra, the learned Additional Public Prosecutor would submit that the first petitioner is the wife of the notorious accused Sridhar, who died in Cambodia by committing suicide and the second petitioner is the sister of the first petitioner. The husband of the first petitioner had indulged in several grave crimes including murder and land grabbing. When he sought to be arrested he escaped from clutches of law and went

abroad. Despite look out circular and Red Corner Notice issued to the said Sridhar, he could not be secured by the Police alive. The defacto complainant, who had been under the constant threat at the hands of the petitioners and his family members, had come out of fear only after the demise of Sridhar and the case being under investigation, releasing the petitioners on bail is strongly opposed. The petitioners being relative of the deceased Sridhar got the property registered in their names paying part sale consideration and on demand of the balance sale consideration, they threatened the complainant with dire consequences. Hence, the case has been registered based on the complaint given by one Lakshmanamoorthi. The case bears wider ramification. These petitioners being the beneficiaries of holding the proceeds of the crime their judicial custody is essential or else they may tamper the witness.

6. Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the State.

7. Perusal of the First Information Report gives a detail narration of the fact like why the defacto complainant and others wanted to sell the property and how he entered into the contract to sell his property and how the payment towards sale consideration was given to them. The petitioners are the purchasers of 2.73 acres and 1.44 acres respectively under documents dated 21.03.2016. Though they claim that they have paid the money by RTGS and no money due to vendor, when the grave allegation of threat to life is *prima facie* made out, this Court is unable to look the complaint as a mere civil dispute. The background facts of the case does not indicate that the petitioners are innocent or bonafide purchasers of valuable consideration. The investigation is under way in respect of the registration of the documents, transfer of money through RTGS and the persons who are the real beneficiaries of the transaction.

8. Going by the complaint and the persons involved in the alleged crime, this Court is of the view that if the petitioners are released on bail even on stringent conditions there is every possibility for tampering the witnesses and also threat to life of the defacto complainant and his family members. Just because these petitioners belong to female gender, that cannot be a reason to show any sympathy as a matter of right. The muscle power gathered by these petitioners, which could be seen from the complaint indicates that the petitioners were underfear till the death of Sridhar at Cambodia. Only thereafter they were embolden to come out and demand the money from the family members of Sridhar, at that time they were allegedly threatened. This threat cannot be taken as an empty threat or

termed as imaginary fear. On reading of the complaint and hearing the submission made by the learned Additional Public Prosecutor for State, this Court is of the opinion releasing the petitioners herein is not conducive to the protection of the witnesses, who are likely to be examined in this case. Therefore, **this Criminal Original Petition is dismissed.**

-sd/-
08/02/2018

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 STATE REP. BY,
THE INSPECTOR OF POLICE, D-5, SALAVAKKAM
POLICE STATION, KANCHEEPURAM DISTRICT.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL , CHENNAI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.R.VINAYAGA VISHNU Advocate on payment of
necessary charges Sr.No.2682

CRL OP.2946/2018

Date :08/02/2018

MD: 09/02/2018