



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.A.(MD)No.80 of 2018

1.S.Veeramani

2.S.Pushparaj

: Appellants / Accused No.1 and 2

Vs.

1.The State represented by
The Inspector of Police,
Ganesh Nagar Police Station,
Pudukottai.

(Crime No.13 of 2018).

: 1st Respondent / Complainant

2.P.Ramasamy

: 2nd Respondent

[R-2 impleaded as per order dated 26.02.2018 in Crl.M.P.(MD)No.1375 of 2018]

PRAYER: Criminal Appeal is filed under Section 14-A(2) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, to call for the records relating to the order dated 12.02.2018 made in Crl.M.P.No.425 of 2018 on the file of the learned Principal Sessions Judge, (Special Court for Exclusive Trial of Cases under SC/ST (POA) Act, 1989, Pudukottai and set aside the same and allow this Criminal Appeal by enlarging the appellants 1 & 2 on bail.

For Appellants

: Mr.V.Singan

For Respondent No.1

: Mrs.S.Bharathi,
Government Advocate (Crl.side)

For Respondent No.2

: Mr.T.Lajapathi Roy

JUDGMENT

The property in question, namely, the plot bearing No.149 measuring around 7 Cents in Perungudi Village, Pudukottai District, originally belonged to one Lakshmi, w/o.P.L.Subbaiah, who permanently resided with her family in Malaysia. Lakshmi died in Malaysia on 22.02.1997 leaving behind (1)Balakrishnan, (2) Backiyavathi, (3)Subramanian, (4)Saroja, (5)Shanthi and (6)Durairaj as her legal heirs.

2. It is seen that Backyavathi married P.Ramasamy and is a resident of Perungudi Village, Pudukottai District. The other legal heirs of P.L.Subbaiah and Lakshmi are living in Malaysia. While so, it came to the knowledge of Ramasamy, the husband of Backyavathi, that Plot No.149 has been sold by Veeramani and his son-in-law Pushparaj to one Imam Oli, vide Document No.4737 of 2016 on 27.09.2016 by fabricating certain revenue records. Hence, on the complaint given by P.Ramasamy, the respondent police have registered a case in Crime No.13 of 2018 on 22.01.2018 under Sections 120-B, 420, 465, 468, 471 and 447 IPC and Section 3(1)(g) of the Scheduled Caste and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015, against Veeramani, Pushparaj, Imam Oli, Pazeer Mohammed,



Mohammed Yusuf and Kaleep Raguman. The accused filed bail application in Cr.M.P.No.425 of 2018, which has been dismissed by the trial Court, aggrieved by which, the first and second accused have filed the present appeal.

3. Heard Mr.V.Singan, learned counsel appearing for the appellants and Mrs.S.Bharathi, learned Government Advocate (Crl.side) appearing for the respondent.

4. Mr.Singan, learned Senior Counsel appearing for the appellants submitted that the property was inherited by Pushparaj from his father P.L.Subbaiah, who, in turn, had inherited from Lakshmi. Therefore, he submitted the fact that Pushparaj was the original owner of the property and that he sold the property on 27.09.2016 to Imam Oli cannot be faulted.

5. In this regard, the learned Senior Counsel appearing for the appellants placed strong reliance upon the communication dated 13.06.2017 addressed by the Joint Registrar No.I, Pudukkottai, to the District Registrar, Pudukkottai, wherein, it is stated that there is no irregularity in the registration of the sale deed document No.4737 of 2016 dated 27.09.2016.

6. The learned Senior Counsel appearing for the appellants has also submitted that after the arrest of A-1 and A-2 by the police on 12.02.2018, they were taken into police custody and thereafter, they have been sent back to the judicial custody, which shows that the police did not require them any further for investigation.

7. The learned Senior Counsel also questioned the *bona fide* of the *de facto* complainant by submitting that the power of attorney, that is said to have been given by the other legal heirs to the *de facto* complainant is a questionable document.

8. Per contra, the learned counsel appearing for the *de facto* complainant submitted that Lakshmi died on 22.02.1997 in Malaysia. But, whereas, the person Lakshmi created by the appellants is said to have been died on 12.05.1995 leaving behind One PL.Subbaiah as her only legal heir. The said PL.Subbaiah is said to have been died on 05.08.2004 leaving behind Pushparaj as his only legal heir. Pushparaj is none other than the son-in-law of Veeramani (A2). It is the prosecution case that A1 and A2 had conspired to fabricate two legal heirship certificates and one relating to Lakshmi and the other relating to PL.Subbaiah. On the strength of the two fabricated Legal Heirship Certificates, they have sold the property to Imam Oli.

9. The learned Government Advocate (Criminal side) appearing for the respondent police submitted that Pushparaj's original father is one Varadharajan, but, whereas Pushparaj claims himself as son of Varadharajan & Subbaiah. The Sub Collector has conducted enquiry and has found that without even submitting the Death Certificates of



Lakshmi and Subbaiah, Pushparaj has obtained Legal Heirship Certificates from the Tahsildar. The Sub Collector, by order dated 21.11.2017, has given a finding that two Legal Heirship Certificates one relating to Lakshmi dated 10.06.1996 and the other relating to PL.Subbaiah dated 16.03.2005 have not been issued by the Tahsildar.

10. The learned Senior Counsel submitted that order dated 21.11.2017 is under challenge in writ proceedings on the ground that Pushparaj was not given sufficient opportunity to represent his case before the Sub Collector.

11. This Court gave its anxious consideration to the rival submissions.

12. It is seen that Pushparaj has not got any parent document with regard to the plot No.149. He has simply claimed right by inheritance. Even for claiming the right on inheritance, there should be some document somewhere to show that the property was purchased by Lakshmi.

13. In this case, Pushparaj does not even have the Death Certificates of Lakshmi and PL.Subbaiah. If Lakshmi and PL.Subbaiah are really existent persons and they had died on 12.05.1995 and 05.08.2004 respectively, Pushparaj must have Death Certificates atleast. Therefore, the contention of the *de facto* complainant and the State that Lakshmi and PL.Subbaiah are fictitious persons cannot be easily dismissed. Pendency of the Writ Petition challenging the order dated 21.11.2017 cannot in any manner be a reason to hold that there are no *prima facie* materials to show that impersonation and fabrication of records have not been done.

14. As regards the contention that the power of attorney given to the *de facto* complainant is a suspect document, this Court is of the view that criminal law can be set into motion by any person. Even assuming for a moment that the power of attorney given to the *de facto* complainant is not valid, that will not efface the evidence collected against the appellants for creating false documents.

15. Taking into consideration the gravity of the allegations against the appellants, this is not a fit case to grant bail to the appellants at this juncture.

16. In the result, this Criminal Appeal is devoid of merits and accordingly, the same is dismissed.

Sd/
Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar



To

1.The Principal Sessions Judge,
(Special Court for Exclusive Trial of Cases
under SC/ST (POA) Act, 1989),
Pudukottai.

2.The Inspector of Police,
Ganesh Nagar Police Station,
Pudukottai.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.V.Singan, Advocate, SR.No.51363

CrI.A. (MD) No.80 of 2018
26.02.2018

SM

KK/SKN RSK/28.03.2018/SAR-1/4P-5C