



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 27.02.2018
CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

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Cr1.O.P.(MD).No.2022 of 2018

The Inspector of Police,
Vachakarapatti Police Station,
Virudhunagar District.

.. Petitioner/Complainant

vs.

Erayah

.. Respondent / Accused No.2

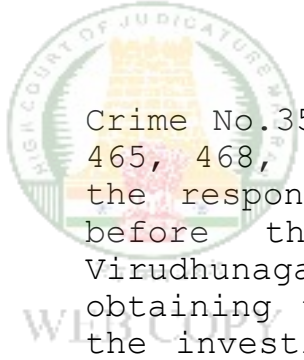
PRAYER:- Criminal Miscellaneous Petition is filed under Section 439 (2) r/w 482 of Cr.P.C., to cancel the anticipatory bail granted in Cr.M.P.No.2784 of 2017, dated 30.08.2017, on the file of the learned Principal District and Sessions Judge, Virudhunagar at Srivilliputhur in favour of the second respondent.

For Petitioner : Mr.A.Robinson
Government Advocate (Criminal side)
For Respondent : M/s.D.Farjana Ghoushia
for Mr.G.Mariappan

ORDER

This Criminal Original Petition has been filed under the provision of Section 439(2) r/w 482 of Cr.P.C., to cancel the anticipatory bail granted in favour of the respondent herein by the learned Principal District and Sessions Judge, Virudhunagar at Srivilliputhur in Cr.M.P.No.2784 of 2017, dated 30.08.2017.

2. The case of the prosecution is that the property in Survey No.155/5 to an extent of 92 cents originally belongs to the husband of the defacto complainant. He died leaving behind herself, her son and three daughters as his legal heirs. Thereafter, in order to grab the said property, without the knowledge of the defacto complainant, A1 appointed the respondent herein/A2 as Power-of- Attorney to deal with the property by way of a forged document in the year 2006. Subsequently, based on the Power-of-Attorney, A2 executed a settlement deed in favour of A3 in the year 2006. Again A3 appointed A4 as Power-of-Attorney in the year 2008. Thereafter, A4 executed a sale deed in favour of A5 and A6 in the year 2009. The above said deeds have been registered in between 2006 and 2009. After coming to know about the registration of those sale deeds in favour of these persons, the defacto complainant lodged a complaint against these persons. In the above said circumstances, based on the direction given by the learned Judicial Magistrate No.I, Virudhunagar, in Cr.M.P.No.8856 of 2017, the respondent police registered a case in



Crime No.350 of 2017 for the offences punishable under Section 420, 465, 468, 471 and 120(b) of IPC., on 21.08.2017. In the meanwhile, the respondent herein/A2 obtained the order of anticipatory bail before the learned Principal District and Sessions Judge, Virudhunagar in Cr.M.P.No.2784 of 2017. It is contended that after obtaining the anticipatory bail order, A2 is not co-operating for the investigation. With regard to the other accused in this case, the anticipatory bail petition filed before this Court was dismissed. Because of the non-appearance of the respondent herein, the investigation is stalled. Hence, the State filed this petition for cancellation of anticipatory bail granted in favour of the respondent/A2.

3. The learned counsel appearing for the respondent contended that since no intimation was received from the petitioner for the appearance of the respondent for interrogation, he has no knowledge with regard to the investigation.

4. I have heard the learned Government Advocate (Criminal side) appearing for the State and the learned counsel appearing for the respondent and perused the records.

5. The submissions made by the learned counsels appearing for both side are considered. The first and foremost contention raised by the petitioner is that after getting anticipatory bail before the learned Principal District and Sessions Judge, Virudhunagar at Srivilliputhur, the respondent/A2 had not appeared before the investigating officer for the purpose of interrogation. On the other hand, the learned Government Advocate (Criminal side) appearing for the State fairly conceded that no notice was served on the respondent for his appearance. Further, he added that after getting anticipatory bail, the respondent regularly appeared before the investigating officer and complying the condition for a period of 26 days without any deviation. In such circumstances, without serving any notice to the respondent, we did not expect the appearance of respondent for interrogation. Hence, the reason submitted by the petitioner for cancelling the anticipatory bail granted in favour of the respondent is not sufficient ground to hold that this is a fit case for cancelling the anticipatory bail granted by the learned Principal District and Sessions Judge, Virudhunagar at Srivilliputhur, in Cr.M.P.No.2784 of 2017 in favour of the respondent. Hence, considering the above said facts and circumstances, this Court is not inclined to allow this petition. Accordingly, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar(AS)

/True Copy/



To

1. The Principal District and Sessions Judge,
Virudhunagar at Srivilliputhur District.

2. The Inspector of Police,
Vachakarapatti Police Station,
Virudhunagar District.

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

Crl.O.P. (MD) .No.2022 of 2018

pjl

JM/KK/SAR 1/26.03.2018/3P/4C