



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

Thursday, the Fifteenth day of November Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) Nos.18387, 18433 & 18435 of 2018

1 RATHINA KUMAR
2 M.PARAMASIVAM

... PETITIONERS/ ACCUSED Nos. 1 & 2
IN CRL OP(MD) No.18387 of 2018

1 KARTHICK
2 RAMESH KUMAR

... PETITIONERS/ACCUSED RANK NOT KNOWN
IN CRL OP(MD) No.18433 of 2018

1 MURUGESAN
2 VELMURUGAN
3 VELAICHAMY
4 MAHENDRAN

... PETITIONERS/ACCUSED Nos. 3 to 6
IN CRL OP(MD) No.18435 of 2018

Vs

STATE REP BY
THE INSPECTOR OF POLICE,
SATTUR TOWN POLICE STATION,
VIRUDHUNAGAR DISTRICT.
(CRIME NO.575 of 2018)

... RESPONDENT/ COMPLAINANT
IN ALL THE PETITIONS

KAMALADEVI

.... PETITIONER/INTERVENER
IN CRL MP(MD) No. 9317 of 2018
IN CRL OP(MD) No. 18387 of 2018

IN CRL MP(MD) No. 8540 of 2018
IN CRL OP(MD) No. 18433 of 2018

IN CRL MP(MD) No. 8539 of 2018
IN CRL OP(MD) No. 18435 of 2018

For Petitioners : MR.M.JOTHI BASU Advocate
IN ALL THE PETITIONS

For Respondent : MR.K.SUYAMBULINGA BHARATHI
Govt. Advocate (Crl. Side), IN ALL THE PETITIONS



For Intervener : R.GANDHI, Advocate

IN CRL MP(MD) No. 9317 of 2018 IN CRL OP(MD) No. 18387 of 2018
IN CRL MP(MD) No. 8540 of 2018 IN CRL OP(MD) No. 18433 of 2018
IN CRL MP(MD) No. 8539 of 2018 IN CRL OP(MD) No. 18435 of 2018

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

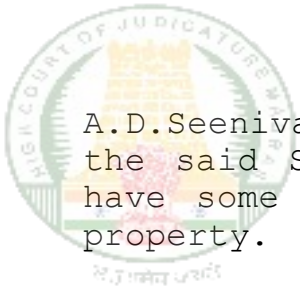
ORDER : The Court Made the following order :-

The petitioners in all petitions apprehending arrest at the hands of the respondent police for the offences punishable under Sections 147, 149, 447, 379 of IPC and Section 3(1) of Tamil Nadu Property (Prevention of Damage and Loss) Act, 1994, in Cr.No.575 of 2018 seek anticipatory bail.

2. According to the petitioners, the petitioners are A1 to A8. The contention of the petitioners is that the Duraiswamy Chettiyar who is the owner of the land had wives and Premavathy is the daughter of 4th wife of the said Duraiswamy Chettiyar. The said Premavathy had entered into a sale agreement with the first and second accused on 29.07.2018 after receipt of Rs.50,00,000/- as advance. On the basis of the said agreement A1 & A2 entered into the property to remove old structure and bushes. The second respondent/defacto complainant have no right in the property approached the first respondent to take action against the accused and filed the above cases. It is also submitted that the defacto complainant using high influence and stop the accused from entering into the property and the said Premavathy had filed a writ petition in W.P.(MD).No.20573 of 2018 before this Court and this Court on 28.09.2018 had passed orders as follows:

"Taking into consideration, the facts and circumstances of the case, the parties are at liberty to agitate their rights only before the civil court and they should not approach the police for the purpose of establishing their rights over the property. It is also made clear that the respondent police will not interfere with the civil dispute pending between the parties."

3. The second respondent/defacto complainant has submitted that one Duraiswamy Chettiyar was the original owner of the property of 2 acres and 4 cents in Sy.No.174/3 in Sattur Town, Virudhunagar District having. During his life time, he had four marriages. On 16.06.1950 he had executed a will in favour of the A.D.Selvaraj, the father of the defacto complainant and A.D.Seenivasan. Premavathy is the 4th wife's daughter of Duraiswamy and defacto complainant and the said Premavathy are legal heirs of Duraiswamy chettiyar. There is a civil suit pending in O.S.No.137 of 1993 and interim application in I.A.Nos.113 of 2005 and 169 of 2016 have been filed. On 01.08.2016 the Premavathy filed applications to restore the I.As which is pending. It is also submitted that during his life time,



A.D.Seenivasan sold the property to an extent of 1 acre 2 cents in the said Sy.No. The defacto complainant and the said Premavathy have some disputes over the property in sharing of the ancestral property.

4.The defacto complainant submits that the property is in his possession and till now the property is with them. Further, the defacto complainant admits that there is a civil dispute with regard to the property. The petitioners being agreement holder have no right to enter into the property and getting an agreement with one of the respondent. The petitioners by giving criminal colour to the civil dispute had indulged in to criminal activity and cause a loss of Rs.25,00,000/- to the property.

5.The Government Advocate reiterated the submissions of the defacto complainant had submits that the damage to the building is to the value of Rs.19,00,000/- and the petitioners had stolen the property worth about Rs.25,00,000/- and the same has to be recovered. The A6 who is the owner of the JCB which was used to demolish the old building has 10 previous cases, when enquired further all the cases are related to mines and minerals not of this case.

6.Considering the rival submissions and to the specific question to the defacto complainant whether the defacto complainant is disputing the agreement executed by the Premavathy to the first and second petitioners and about the rights of the Premavathy, he denied the same. He admitted that the agreement was executed by Premavathy to the petitioners. On going through the agreement, it is seen that the money transaction and the rights given to the first and second petitioners had been wherein specific a specific mention was there. It reads as follows:

"தபசில் சொத்துக்குரிய இடத்தில் உள்ள வேலி மற்றும் பழைய கட்டிடத்தை இடித்து சுத்தம் செய்து கொள்வது |வது பார்ட்டியார்கள் பொறுப்பாகும்."

when such a right has been given to the said Premavathy no forgery or criminality could be attached to the Act of the petitioners.

7.Therefore, this court is inclined to grant anticipatory bail to the petitioners.

8.Accordingly, the petitioners is ordered to be released on bail in the event of arrest or on thier appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Sattur, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties, each for a like sum to the satisfaction of the said Magistrate, on further condition that:

<https://hcservices.ecourts.gov.in/hcservices/>

[a] if the petitioners fail to surrender before the said Magistrate within a period of fifteen days, this Order shall stand

automatically cancelled.

[b] the petitioners shall report before the respondent police twice on daily at 10.30 a.m. for a period of two weeks and thereafter as and when required for interrogation.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners shall not abscond either during investigation or trial.

[e] 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 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]**.

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
15/11/2018

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

TO

- 1 THE JUDICIAL MAGISTRATE NO II,
SATTUR, VIRUTHUNAGAR DISTRICT
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR
- 3 THE INSPECTOR OF POLICE,
SATTUR TOWN POLICE STATION,
VIRUDHUNAGAR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

+3. CC to Mr.M.JOTHI BASU Advocate SR.No.21593 to 21595

ORDER
IN
CRL OP(MD) Nos.18387, 18433
AND 18435 of 2018
Date :15/11/2018