



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :17.07.2019

CORAM:
THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.16946 of 2019

P.Gomathi

... Petitioner

Vs.

1.Manimekelai

2.Saravanaprakash

3.State rep. By

The Inspector of Police,
Sathyamangalam Police Station,
Erode District.

Crime No.218 of 2019

... Respondents

PRAYER: Criminal Original Petition filed under Section 439(2) of Cr.P.C., to cancel the anticipatory bail granted to the respondents 1 and 2 in Crl.M.P.No.881 of 2019 dated 15.06.2019 on the file of the learned Principal Sessions Judge, Erode.

For Petitioner : Mr.N.Manoharan

For R1 & R2 : Mr.S.Parthasarathy

For R3 : Mrs.M.Prabhavathi
Additional Public Prosecutor

O R D E R

This petition has been filed to cancel the anticipatory bail granted to the respondents 1 and 2 in Crl.M.P.No.881 of 2019 on the file of the learned Principal Sessions Judge, Erode by an order dated 15.06.2019.

2. The learned counsel for the petitioner/defacto complainant submitted that a case has been registered as against the respondents 1 and 2 in Crime No.218 of 2019 for the offences under sections 294(b), 380 and 427 IPC. He further submitted that the defacto complainant purchased the property from the first respondent/A1 on 18.03.2016 vide document no.1814/2016. From the date of sale, the petitioner has been put in possession and enjoyment of the property. Thereafter, on the request of respondents 1 and 2, a portion of the property was permitted to occupy till they find other house to shift. Utilising this



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opportunity, the respondents 1 and 2 refused to vacate the premises and also demanded more money from the defacto complainant/petitioner to vacate the premises. Thereafter, the petitioner/defacto complainant filed a suit in O.S.No.35 of 2019 on the file of the learned III Addl. District Judge, Gobichettipalayam for permanent injunction as against the respondents 1 and 2. Even then, on 26.03.2019 the respondents came along with rowdy elements and threatened other tenants who occupied in the other portions and threatened them to vacate the premises and also threatened the construction workers of the petitioner. Therefore, a complaint was lodged against the respondents 1 and 2 and the same was registered in Crime No.218 of 2019. Immediately the respondent 1 & 2, approached the learned Principal Sessions Court, Erode for anticipatory bail and they were granted anticipatory bail by an order dated 15.06.2019 in CrI.M.P.No.881 of 2019. Even thereafter, the respondents indulged in the same activities and also demolished the construction area and damaged the portion occupied by the tenants to the tune of Rs.20,000/-. Therefore, again a complaint was lodged against the respondents 1 and 2 and the same was registered in Crime No.319 of 2019 for the offence under sections 249 (b), 427, 448, 324 and 506(ii) IPC. However, they again indulged in same illegal activities. Therefore, the petitioner /defacto complainant sought for cancelling the anticipatory bail granted to the respondents 1 and 2 in CrI.M.P.No.881 of 2019 by the learned Principal Sessions Judge, Erode by an order dated 15.06.2019.

3. Per contra, the learned counsel for the respondents 1 & 2 submitted that they never committed any offence as alleged by the petitioner herein. The property was originally owned by the first respondent and on borrowal of loan, the said property was transferred in the name of the petitioner / defacto complainant on condition that whenever the respondents 1 & 2 return the money, the property has to be restored in the name of the respondents 1 & 2 and based on the said condition only, they executed the sale deed in favour of the petitioner. Now the petitioner refused to return the property to the respondents 1 & 2. Infact the respondents 1 and 2 also filed a suit in O.S.No.27 of 2019 before the III Additional District Judge, Gobichettipalayam, challenging the said sale deed registered in favour of the petitioner. Therefore, on 26.03.2019, the respondents never indulged in any criminal activities as alleged by the prosecution and only to strengthen the civil case, a false complaint has been lodged as against R1 and R2 that they trespassed into the property and demolished some portion of the property to the tune of Rs.20,000/-. Therefore, he sought for dismissal of the petition.

4. The learned Additional Public Prosecutor submitted that this petition has been filed to cancel the anticipatory bail



granted to R1 and R2 in CrI.M.P.No.881 of 2019 on the file of the learned Principal Sessions Judge, Erode by an order dated 15.06.2019 on the ground that R1 and R2 after obtaining anticipatory bail, again indulged in the same crime and trespassed into the property of the petitioner and damaged the same to the tune of Rs.20,000/-. Therefore, the petitioner again lodged a complaint against R1 and R2 on 20.06.2019 and the same has been registered in Crime No.319 of 2019 for the offences under Sections 249(b), 427, 448, 324 and 506(ii) IPC. Hence, she prays to allow the petition by cancelling the anticipatory bail granted to R1 and R2 by the Court below.

5. Heard the learned Counsel for the petitioner and the learned counsel for the respondents 1 and 2.

6. It is seen that this petition has been filed to cancel the anticipatory bail in Crime No.281 of 2019, granted to R1 and R2 in CrI.M.P.No.881 of 2019 on the file of the learned Principal Sessions Judge, Erode by an order dated 15.06.2019 on the ground that R1 and R2 again indulged in the same crime. Further, they also trespassed into the property of the petitioner and damaged the same to the tune of Rs.20,000/-. Therefore, another crime has been registered as against R1 and R2 in Crime No.319 of 2019 for the offences under Sections 249 (b), 427, 448, 324 and 506(ii) IPC. In which, R1 and R2 seek anticipatory bail and they also filed affidavit which reads as follows:

"1. I am the 1st petitioner in the CrI.O.P.No.16770/2019 and 1st respondent in CrI.O.P.No.16946 and as such I am well acquainted with the facts and circumstances of the case.

2. I submit that I was charged with offences under Sections 294(b), 427, 448, 324 and 506(ii) IPC in Crime No.319 of 2019 in the said case. I have filed anticipatory bail petition in CrI.O.P.No.16770 of 2019 in Crime No.218 of 2019 I was charged with offence under Sections 294(b), 380 and 427 IPC. On 15.06.2019 the learned Principal District and Sessions Judge, Erode was pleased to grant anticipatory bail in CrI.M.P.No.881 of 2019 against the said order the defacto complainant preferred cancellation of bail in CrI.O.P.No.16946 of 2019.

3. I further submit that I undertake that I will not disturb the defacto complainant and damage the property. Further



I undertake that I will abide by any condition as this Hon'ble Court may impose and furnish sufficient solvent sureties."

It is seen from the affidavit that R1 and R2 undertake that they will not disturb the possession of the petitioner in future.

7. Considering the facts and circumstances of the case and also considering the affidavit filed by R1 and R2, this Court is inclined to pass the following orders.

(a) hereafter, R1 and R2 shall not interfere with the peaceful possession and enjoyment of the portion of the property situated site No.9 measuring 3400 sq.ft., comprised in new S.F.Nos.14/2 and 14/3 (old S.F.No.83, Thirunagar Colony, Rangasamuthiram Village, Sathyamangalam Taluk, Erode District.

(b) the respondent 1 and 2 shall not interfere with the construction made by the petitioner/defacto complainant in the said property. Failing which the respondent police is directed to take appropriate action against R1 and R2 in accordance with law.

Sd/-

Joint Registrar(J)

//True Copy//

Sub Assistant Registrar

mpa

To

1.The learned Principal Sessions Judge,
Erode.

2.The Inspector of Police,
Sathyamangalam Police Station,
Erode District.

3.The Addl.Public Prosecutor,
High Court of Madras.

+1cc to Mr.N.Manokaran, Advocate, S.R.No.60927

+1cc to Mr.S.Parthasarathy, Advocate, S.R.No.65716

CRL.O.P.No.16946 of 2019

RP(CO)

RRS(20/08/2019)