

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the First day of October Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice M. SATHYANARAYANAN

and

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL ORIGINAL PETITION NO.23993 OF 2019

& CRL.MP.NO.13960 OF 2019

K.RAJARAM

[PETITIONER / ACCUSED]

Vs

1 STATE REP BY,
INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
DHARMAPURI, DHARMAPURI DISTRICT.
CR.NO. 1 OF 2018.

[RESPONDENT]

2 K.S.JAGANNATHAN [RESPONDENT / DEFACTO COMPLAINANT]
[**]R2 permitted to intervene as per the orders of this Court made in
Crl.MP.No.13960/2019 dated 27.09.2019.]

[Ordered as per order of this Court dated 01/10/2019 made in
CRL.MP.NO.13960 OF 2019 IN CRL.OP.NO.23993 OF 2019]

For Petitioner : M/S.R.RADHA PANDIAN Advocate

For Respondent : MR.R.PRATHAP KUMAR ADDITIONAL PUBLIC PROSECUTOR

For Intervenor : M/S.A.ILAYA PERUMAL Advocate

PETITION FOR BAIL 439 Cr.P.C.

ORDER : The Court Made the following order :-

M.SATHYANARAYANAN, J.,

(1)The petitioner in the present Criminal Original Petition, is arrayed as A-13 in Crime No.1 of 2018 registered by the respondent police for the alleged commission of the offences under Section 120 [B], 465, 468, 471 and 420 of IPC. He was arrested and remanded to judicial custody on 10.08.2019. He has come forward with the present petition seeking bail.

(2)The petitioner in Crl.MP.No.13961 of 2019 is the defacto complainant and on the basis of his complaint only, a case in Crime No.1 of 2018 was registered by the respondent police.

(3) The case of the prosecution is that the land admeasuring to an extent of 25 Acres in Survey No.867/2 at Adhiyamankottai Village, Dharmapuri Taluk and District, belong to the defacto complainant and one Nagaraj [A-1] and Rajendran [A-2] hatched conspiracy in conniving with each other and managed to get a forged patta for 8.16 Acres and based on the said patta, Nagaraj [A-1] is said to have executed the Deed of Mortgage in favour of Rajendran [A-2] and the period of discharge was periodically extended and in pursuance to the so-called Agreement dated 03.12.2010, the services of the petitioner who is arrayed as A-13, was utilised as the Sole Arbitrator in respect of the Arbitral proceedings initiated by Rajendran [A-2] and Nagaraj [A-1] and interim Award was passed on 27.11.2014 and thereafter, Exparte Final Award was passed on 29.03.2016. The said Rajendran [A-2] filed REP.No.36 of 2016 on the file of the Court of the Principal District and Sessions Judge, Dharmapuri for execution of the Sale Deed in respect of the said property and the respondent/Judgment Debtor - Nagaraj, remained Exparte and a registered Sale Deed dated 02.05.2017 bearing Document No.1075 of 2017, was also executed by the said Court in favour of Rajendran [A-2]. The defacto complainant on becoming aware of the same, has lodged a complaint on the file of the respondent police and since it was registered, he filed Crl.OP.No.7724 of 2018 on the file of this Court praying for appropriate direction to register the case and in pursuant to the orders passed by this Court only, the case in Crime No.1 of 2018 was registered by the respondent police.

(4) Mr.R.Radha Pandian, learned counsel appearing for the petitioner/A-13 [K.Rajaram] would submit that the petitioner [A-13] is made as a scapegoat and one Mr.A.R.Chandran, is behind the entire episode and he used to conduct Arbitration Centres in various places in Tamil Nadu as well as in Karnataka and taking note of the situation of non-practicing or Advocates having meager practice, engaged their services as Arbitrators and the petitioner [A-13] is one of the victims. It is further submitted by the learned counsel for the petitioner [A-13] that on an earlier occasion with regard to fake Arbitral Award, disciplinary proceedings was initiated by the Bar Council of Tamil Nadu and Puducherry and he was suspended for three years and that period is also over and further pointed out that he is the only son and his mother is seriously ill and taking into consideration that the petitioner [A-13] is in custody for more than 45 days, prays for enlargement of the petitioner [A-13] on bail.

(5) **Per contra**, Mr.A.Ilaya Perumal, learned counsel appearing for the intervenor / defacto complainant has invited the attention of this Court to the typed set of documents filed in support of the petition for intervention and would submit that the petitioner [A-13] who claims to be an Advocate belonging to noble profession, cannot claim ignorance and rather permitted to take a stand that he had fallen to the guile of one Mr.A.R.Chandran, who is operating

very many Arbitration Centres in Tamil Nadu and Karnataka and being an Advocate, he is expected to have some sort of legal knowledge and knowing pretty well that his services are utilised to obtain a fake Arbitral Award, had volunteered his services and also played his role and as a consequence, the defacto complainant/intervenor is forced to spend his valuable time and money in prosecuting various litigations and defending frivolous litigations for more a decade and further pointed out that one Mr.Nagaraaj [A-1], the prime accused in this case though was enlarged on default bail, is yet to be secured/arrested in the light of the subsequent materials gathered and strongly opposed this petition for bail and in the event of enlargement of the petitioner [A-13] on bail, he would definitely tamper with the evidence and hamper the investigation, especially, taking advantage of the fact of being a legal practitioner and hence, prays for dismissal of this Criminal Original Petition.

(6) Mr.R.Prathap Kumar, learned Additional Public Prosecutor appearing for the respondent / State would also strongly opposes the plea made by the petitioner [A-13] for grant of bail by submitting that immediately after the arrest of the petitioner [A-13] on 10.08.2019, police custody was granted between 21.08.2019 and 23.08.2019 and in pursuant to the admissible portion of his confession statement, certain incriminating materials like Rubber Stamps, Identity Cards, used for Arbitral Awards and other incriminating articles were seized and the investigation also revealed that the petitioner [A-13] has acted as the Arbitrator in three more fake Arbitral Awards. It is the further submission of the learned Additional Public Prosecutor that the petitioner [A-13] was also in possession of the Identity Cards issued by one A.R.Chandran, who was running Arbitration Centres and he is yet to be nabbed and would further add that the investigation is at the crucial stage and also taking advantage of the fact that the petitioner [A-13] is a lawyer, he would definitely tamper with and threaten the witnesses and prays for dismissal of this Criminal Original Petition.

(7) This Court has carefully considered the arguments advanced by the learned counsel for the petitioner/A-13 ; learned counsel for the intervenor/defacto complainant as well as the learned Additional Public Prosecutor and also perused the materials placed before it.

(8) Admittedly, the petitioner [A-13] acted as a sole Arbitrator in respect of the earlier fake Arbitral Award for which, he was proceeded with in the form of disciplinary proceedings by the Bar Council of Tamil Nadu and Puducherry and he was debarred from practicing between 2013 and 2017 and despite that, he appears to be a willing party in one more fake Arbitral Award of similar nature in respect of the present case. This Court has also taken note of the submission made by the learned Additional Public Prosecutor that while the petitioner was in police custody, he volunteered to give a confession statement and based on the admissible portion of the same, some incriminating articles such as Rubber Stamps, Identity Cards, issued by one A.R.Chandran, who was running very

many Arbitration Centres, have been seized and that apart, he has acted as an Arbitrator in respect of two more fake Arbitral Awards.

(9) It is to be noted at this juncture that the said A.R.Chandran, who is also shown as an accused in this case, still remains at large and though it is submitted by the learned Additional Public Prosecutor that all out efforts have been taken to arrest him, the fact remains that as on date, he is yet to be arrested and that apart, Nagaraj [A-1] in pursuant to his enlargement on statutory bail, despite the reversal of his acquittal in respect of some of the charges and sustainment of conviction in respect of some offences by this Court, is yet to be taken into custody. Though it is open to the prosecution to take appropriate steps to secure the custody of Nagaraj [A-1] in the light of the subsequent materials gathered in this case, so far no steps have been taken to secure Nagaraj [A-1]. The conduct of the petitioner [A-13] who claims to be a lawyer, is also very much questionable in the light of his antecedents pointed out in the earlier paragraphs and it appears that he has forgotten his noble duty and responsibility as a legal practitioner. In respect of one of the fake Arbitral Awards, he is also arrayed as an accused, viz., A-2, in Crime No.10 of 2015 which also appears to be closed, for which, the learned Additional Public Prosecutor also seeks time to file a further Status Report through the Additional Director General of Police, Law and Order.

(10) In the considered opinion of the Court, in the light of the above cited facts and circumstances, it is not a fit case in which, the prayer for bail to the petitioner [A-3] is to be granted.

(11) In the result, the Criminal Original Petition **stands dismissed.**

-sd/-

01/10/2019

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 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

2 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
DHARMAPURI, DHARMAPURI DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

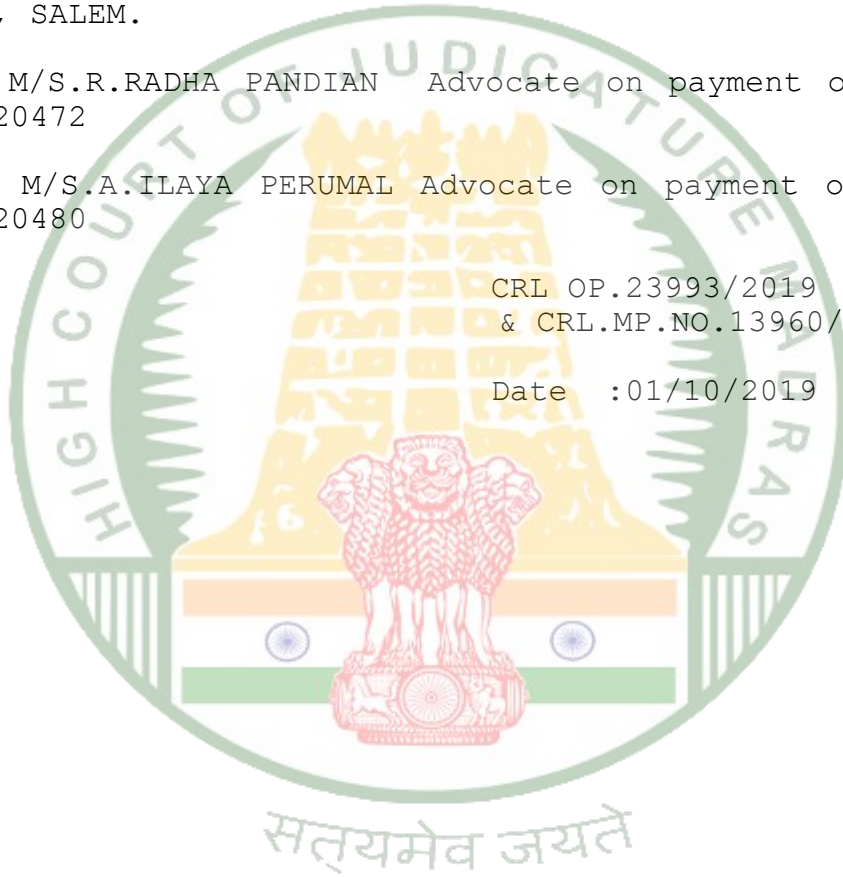
+2CC to M/S.R.RADHA PANDIAN Advocate on payment of necessary
charges SR NO.20472

+1CC to M/S.A.ILAYA PERUMAL Advocate on payment of necessary
charges SR NO.20480

CRL OP.23993/2019
& CRL.MP.NO.13960/2019

Date :01/10/2019

MK:14/10/2019



WEB COPY