



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

Thursday, the Thirty First day of January Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) Nos.1338 & 1316 of 2019

A.VIJAYAKUMAR,

... PETITIONER / ACCUSED No.1
in CRL OP(MD).NO.1338 OF 2019

1.MANJULA

2.MALATHI

... PETITIONERS/ACCUSED NOS.2 & 3
IN CRL OP(MD).NO.1316 OF 2019

Vs

THE INSPECTOR OF POLICE
CENTRAL CRIME BRANCH,
MADURAI DISTRICT.
(IN CRIME NO.02/2019)

... RESPONDENT / COMPLAINANT
IN BOTH PETITIONS

For Petitioner : M/S.PUSHPALATHA FOR
M/S.DHANA LAW ASSOCIATES Advocate
in CRL OP(MD).NO.1338 OF 2019

: M/S.S.PUSHPALATHA FOR
MR.R.RAJAMOHAN, Advocate
IN CRL OP(MD).NO.1316 of 2019

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

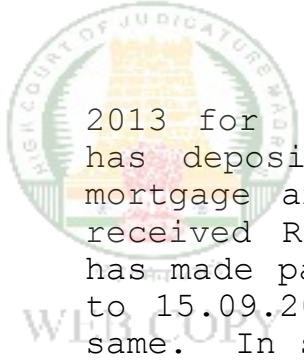
For Intervener : MR.S.SOLAISAMY, Advocate
in BOTH PETITIONS

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

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 120(B), 465, 468, 471, 34 of IPC in Cr.No.02 of 2019, seek anticipatory bail.

2. The case of the prosecution is that the petitioner has mortgaged his house property with one Periyasamy during November



2013 for Rs.8,00,000/- (Rupees Eight lakhs only). The petitioner has deposited the title deed of the property by way of simple mortgage and he also executed one pro-note on 12.03.2016 and has received Rs.8,00,000/- Thereafter, according to the petitioner he has made payment by selling one of his properties during 11.09.2017 to 15.09.2017 but the respondent failed to issue receipts for the same. In support of the same, he has also filed his bank statement of the accounts. Further, it is submitted that the said Periyasamy has passed away on 16.06.2017 and his son Askok Kumar now claims that the loan amount has not been repaid and the due with interest is also pending.

3. According to the de facto complainant Ashok Kumar, the petitioner has borrowed a sum of Rs.11,00,000/- as loan amount against which the petitioner has also filed a petition before Principal Sub Judge, Madurai for offences under Sections 5 and 6 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 r/w section 151 of CPC against the said Ashok Kumar in P.C.E.I.O.P No.7 of 2018.

4. As a counter blast to it, the said Ashok Kumar has filed a civil suit before the District Judge, Madurai in O.S.No.144 of 2018 seeking a decree for the petitioners to pay the principal and interest for the loan of Rs.11,00,000/-.

5. Learned counsel for the intervener submits that according to him, the loan amount was received by the petitioner only on 12.03.2016 and the loan was Rs.11,00,000/- and now it is due with interest to the tune of Rs.14,00,000/- for which he had filed a civil suit. Further, the petitioner Vijayakumar had settled his property in favour of his daughters, who are the petitioners in Crl.O.P.(MD) No.1316 of 2019. While executing the settlement deed, the petitioners herein had produced the forged receipt of CSR No.CAV1758112 dated 29.10.2017 as though the receipt was issued by the Inspector of Police, (Crime) Anna Nagar, Madurai. Using the forged documents, he had registered the settlement deed by not producing the original documents when the petitioner is aware that the original document is very much available with the de facto complainant. Hence, the petitioner has created the forged documents and had executed the settlement deed.

6. The learned Government Advocate (Crl., side) submits that the case has been recently registered and the investigation is in progress. The documents have to be recovered and thereafter, sent for forensic study. Considering the same, in Crl.O.P(MD) No.1316 of 2019, as far these petitioners are concerned, they are the daughters of the petitioner/ first accused in this case, and the averments made in this petition is that they have received the properties by way of settlement deed and through forged documents.

7. The contention of the petitioners in Crl.O.P(MD) No.1316 of 2019 is that they are innocent and they are not aware of such forged



happenings on the house property, where their father is staying and they are the only legal heirs of their father/Vijaya Kumar and he has settled the properties out of love and affection and they cannot be found faulted with.

8. Taking into consideration the facts of the case and the submissions made by the learned counsels, this Court is inclined to grant anticipatory bail to the petitioners. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, before the learned Judicial Magistrate No.I, Madurai 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 conditions that:

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

[b] All shall report before the respondent police daily at 10:30 a.m. for a period of two weeks and for the other two petitioners 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/-

31/01/2019

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

TO

1. THE JUDICIAL MAGISTRATE NO.I,
MADURAI

2. DO THRO' THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.



3. THE INSPECTOR OF POLICE,
CENTRAL CRIME BRANCH,
MADURAI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.DHANA LAW ASSOCIATES Advocate SR.No.2114
+1. CC to MR.R.RAJAMOHAN, Advocate SR.No.2113

ORDER
IN
CRL OP (MD) Nos.1338 & 1316 of 2019
Date :31/01/2019

STS
AE/VR/SAR-II/19.02.2019/4P/7C