



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

Monday, the Fourth day of February Two Thousand Nineteen

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PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.418 of 2019

1 M.SRINIVASAN

2 NIRMALA

... PETITIONERS / ACCUSED

Vs

THE INSPECTOR OF POLICE

SIVAGANGAI DISTRICT CRIME BRANCH POLICE STATION,

SIVAGANGAI DISTRICT

(CRIME NO.NOT KNOWN OF 2019)

... RESPONDENT / COMPLAINANT

For Petitioners : Mr.B.SUKUMAR Advocate

For Respondent : Mr.Mr.S.CHANDRASEKAR,Additional Public Prosecutor

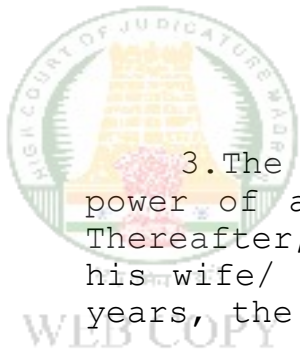
For Intervener : Mr.B.SUKUMAR,Advocate

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 offence under Sections 147, 148, 447, 294(b), 323, 324 and 506(ii) of I.P.C r/w. Section 4 of Women Harassment Act in Crime No.28 of 2019 on the file of the respondent police, seek anticipatory bail.

2.It is the case of the prosecution that the de facto complainant is the owner of the property. Initially on 18.08.2009 he has executed a mortgage deed by obtaining a sum of Rs.1,00,000/- (Rupees One Lakh only) from the petitioner. Thereafter, the de facto complainant received another sum of Rs.2,00,000/- (Rupees Two Lakhs only) from the de facto complaint and executed a Power of attorney in favour of first petitioner on 11.02.2011. Thereafter, the first petitioner executed a sale deed in favour of his wife/ second petitioner on 26.08.2018 and legal notice was issued to the respondent and one Ramachandran. Since the matter was not settled, the defacto complainant filed a complaint before the respondent alleging that the accused intent to grab the property and created false document. Thereby, the Law Enforcing Agency has registered a complaint.



3.The learned counsel for the petitioners would submit that the power of attorney executed in the year 2011 is a registered one. Thereafter, the first petitioner executed a sale deed in favour of his wife/ second petitioner in the year 2013. After lapse of five years, the defacto complainant filed a complaint is unsustainable.

4.The learned counsel for the intervenor would submit that though the entire amount was settled in favour of the petitioners, the petitioners in order to grab the property without his knowledge has executed a sale deed in favour of second petitioner and the entire loan amount has been paid by de facto complainant's brother to the petitioners by way of cheque. The sale receipt dated 11.02.2011 was also executed by the first petitioner in favour of the de facto complainant's father. Hence, he vehemently opposed for grant of anticipatory bail

5.Considering the nature of the allegation and considering the fact that the case is appear to be civil dispute, this Court is inclined to grant anticipatory bail to the petitioners.

6.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their 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, Sivagangai 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

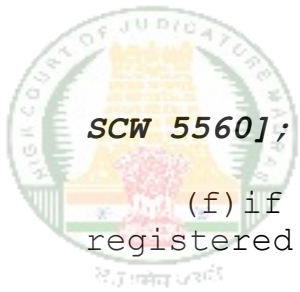
(a)the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b)the petitioners shall report before the respondent police daily at 10.30 p.m. for a period of four 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]; and;

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

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04/02/2019

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.III,
SIVAGANGAI.
- 2 THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI.
- 3 THE INSPECTOR OF POLICE
SIVAGANGAI DISTRICT CRIME BRANCH POLICE STATION,
SIVAGANGAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to MR.A.P.ATHITHAN Advocate SR.No.2310
+1. CC to MR.B.SUKUMAR Advocate SR.No.2255

PS/JC/SAR-4/08.02.2019/3P/7C

ORDER
IN
CRL OP(MD) No.418 of 2019
Date :04/02/2019