



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

Friday, the First day of February Two Thousand Nineteen

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PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.21839 of 2018

1 MUTHUUDAIYAR
2 PERUMALSAMY
3 MURUGAN

... PETITIONERS / ACCUSED 1 TO 3

Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE,
ETTAYAPURAM POLICE STATION,
THOOTHUKUDI DISTRICT.
(IN CRIME NO. 277 OF 2016)

... RESPONDENT / COMPLAINANT

CHANDRASEKAR

...PETITIONER/DEFACTO COMPLAINANT

For Petitioners : Mr.M. PRABU Advocate

For Respondent : Mr.K.SUYAMBULINGA BHARATHI Govt. Advocate
(Crl. Side)

For Intervener : Mr.B.PRASANNAVINOOTH, 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 offences punishable under Sections 447, 294(b), 427, 420, 467, 468 and 506(i) I.P.C, in Crime No.277 of 2016, seek anticipatory bail.

2.The case of the prosecution is that on 07.12.2016 at about 11.30 am., the defacto complainant namely Chandrasekar had lodged a complaint before the respondent police stating that the Patta No.68 was transferred in the defacto complainant name in the year 1998. The 1st petitioner executed a power of attorney in favour of the 2nd and 3rd petitioners and 4th accused had witnessed the document. Based on the strength of the above fabricated document, the petitioners are entered into the defacto complainant's property and cut down Karuvelam trees worth about Rs.1 lakh and removed the same. The defacto complainant immediately rushed to Kovilpatti and enquired with petitioners, due to which, some wordy quarrel arose between them. The defacto complainant came to know that the 1st petitioner colluding with other petitioner have fabricated and registered the



document. Hence a case has been registered as against the petitioners.

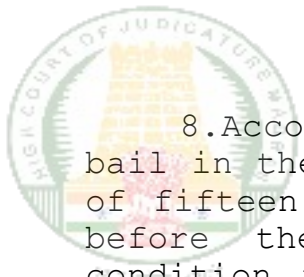
3. The learned counsel for the petitioners would submit that the property in survey No.298/4 for an extent of 1 acre 76 cents was purchased from the legal heirs of one Udaiyar vide sale deed in document No.2030/1994, dated 20.07.1994 by one Srinivasan Son of Rengappa Naicker and the petitioner purchased the said property from the said Srinivasan vide document No.1242/98 on the file of the Sub Registrar, Kovilpatti. After purchase of the property, the petitioners approached the Revenue authorities to mutate the patta and all other Revenue documents in his name, after enquiry, the petitioner's name reflects in all the Revenue documents as on date.

4. The learned counsel for the defacto complainant would submit that there was a civil suit pending between the Srinivasan and the petitioner for specific performance and the same was dismissed against said Srinivasan and appeal was preferred by him and the same was allowed. Against which, the petitioner preferred a second appeal in S.A.No.526 of 2005, by an order dated 30.08.2011. This Court allowed the petitioner's appeal and now the above said Srinivasan has preferred a SLP in Supreme Court in SLP.No.36332 of 2011 and the same is pending for consideration.

5. He would also submit that the above said facts being so, the 1st petitioner namely Muthuudaiyar created a fabricated patta as if patta No.68 to the subject survey Number stands in the name of Udaiyar son of Irulappan. Actually patta No.68 was transferred in the petitioner's name in the year 1998 itself. The documents filed in the typed set of papers will show the fraudulent action of the accused. The 1st accused executed a power of attorney infavour of 2nd and 3rd accused has witnessed the document. Based on the strength of the above fabricated document the accused Nos.1 to 3 entered into the petitioner's property and cut down Karuvelam trees worth Rs.1,00,000/- and removed the same, only on coming to know of the same, the defacto complainant, who is residing in coonoor, immediately rushed to kovilpatti and enquired with the accused Nos.1 to 3 and they scolded the defacto complainant with filthy language and threatened to do away with him if he claims any right over this property. Thereafter, the defacto complainant came to know that the 1st accused colluding with the accused Nos.2 and 3 has fabricated and registered a document, hence the defacto complainant given a protest petition dated 14.11.2016 to the Sub Registrar, Ettayapuram and preferred the above complaint against all the accused.

6. Heard the learned Government Advocate (Criminal Side) for the respondent.

7. Considering the facts and circumstances of the case and also considering the fact that it is a civil dispute, this Court is inclined to grant anticipatory bail to the petitioners.



8. 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, Kovilpatti, 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:

[a] the petitioners shall appear before the respondent police daily at 10.30.am, for a period of two weeks, thereafter as and when required for interrogation.

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

[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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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/-

01/02/2019

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

TO

- 1 THE JUDICIAL MAGISTRATE NO.II, KOVILPATTI.
- 2 THE CHIEF JUDICIAL MAGISTRATE, THOOTHUKUDI.
- 3 THE INSPECTOR OF POLICE
ETTAYAPURAM POLICE STATION, THOOTHUKUDI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr.M. PRABU Advocate SR.No.2217
+1. CC to Mr.B.PRASANNA VINOTH Advocate SR.No.2221
PS/JC/SAR-3/08.02.2019/3P/7C

ORDER

IN

CRL OP(MD) No.21839 of 2018

Date : 01/02/2019