



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Thursday, the Third day of January Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) Nos.22108 & 22163 of 2018

1 KALYANASUNDARAM
2 E.SUBRAMANI

... PETITIONERS / ACCUSED 1 AND 3
IN CRL OP(MD)NO.22108/2018

1 AMALRAJ
2 ISABELLA
3 ANNAMALAI
4 SELVAKUMAR
5 S.P.BHARATHI
6 R.BHARATHI
7 THILAGAVATHY
8 SUBRAMANIAN

...PETITIONERS/ACCUSED 4 AND 11
IN CRL OP(MD)NO.22163/2018

Vs

THE STATE OF TAMIL NADU
THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
MADURAI DISTRICT.
(CRIME.NO.35/2018)

... RESPONDENT / COMPLAINANT
IN BOTH PETITIONS

For Petitioner : Mr.N.DILIP KUMAR Advocate
(IN CRL OP(MD)NO.22108/2018)

For Petitioner : Mr.B.CHANDRAMOHAN,Advocate
(IN CRL OP(MD)NO.22163/2018)

For Respondent : Mr.S.CHANDRASEKAR ,Additional Public Prosecutor
(IN BOTH PETITIONS)

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

ORDER : The Court Made the following order :-

There are totally 17 accused in this case. The petitioners in Crl.O.P.(MD).No.22108 of 2018 are A-1 and A-3 and the petitioners in Crl.O.P.(MD).No.22163 of 2018 are A-4 to A-11. Apprehending arrest at the hands of the respondent police for the alleged offences punishable under Sections 419, 420, 465, 468, 471 and 120-B of IPC



in Crime No.35 of 2018, they seek anticipatory bail.

2. The case of the prosecution is that the defacto complainant Dhanalakshmi had lodged a complaint on 06.12.2018 for the occurrence took place on 02.07.2015, wherein, the second accused one Radhamani impersonated as Dhanalakshmi, executed sale deeds as Documents Nos.1456 to 1563 of 2015 before the Sub Registrar office, Chekkanurani, Madurai District for the lands to an extent of 6.83 acres in Sy.Nos.418/1A1, 418/1A2 & 418/1B. It is the further case of the prosecution that the said lands belong to one Sangammal and one Parvathi, daughter of the said Sangammal had inherited the same. Later, the said Parvathi executed a settlement deed on 26.04.1991 in favour of one Chellakannu @ Selvakan. Through this settlement deed, the defacto complainant claims right over the property.

3. On the other hand, accused Nos.1 and 3 (Petitioners in CrI.O.P.(MD).No.22108/18) claiming title over the property, executed sale deeds to various persons namely A-4 to A-11 (Petitioners in CrI.O.P.(MD).No.22163/18) from 14.08.2015 onwards. While execution of the sale deeds, the second accused Radhamani impersonating herself as Dhanalakshmi had jointly executed sale deeds along with first and third accused. The Voter I.D produced for identification during registration is a forged one. Hence, the case came to be registered.

4. The contention of the petitioners is that the petitioners claim right over the property from Sangammal, who had sold the property to one Muthu Karuppa Pillai as document No.1019/1937 on her behalf and on behalf of her minor daughter Parvathi. Thereafter, the first and third accused came in possession and title over the property. There seems to be a litigation between the first accused and the above mentioned Dhanalakshmi along with the Registration Department Officials, by way of filing a writ petition in W.P.(MD). No.12232 of 2017 and an order of interim stay was granted on 30.06.2017 and the said order of stay is still persisting. The above writ petition came to be filed challenging the order of the District Registrar, dated 08.06.2017 by way of cancelling the Document Nos.1456 to 1563 of 2017.

5. The further contention of the accused Nos.1 & 3 is that they were not aware of the impersonation and they could not have executed sale deeds along with Dhanalakshmi. With regard to the dispute between the said Dhanalakshmi and the petitioners in respect of the title of the property, the petitioners had earlier filed criminal complaint on 28.06.2017 before the Andipatti Police Station and it was registered as Cr.No.311 of 2017. Thereafter coming to know about it, the present complaint has been lodged against the petitioners. As regards the accused Nos. 4 to 11, their contention is that they are innocent purchasers and they were not aware of the litigations and disputes between first and third accused with the said Dhanalakshmi.



6. The learned Additional Public Prosecutor appearing for the respondent, on instructions, would submit that the complaint given by the first and third accused in Cr.No.311 of 2017 was transferred on 03.12.2018 as per the orders of the Superintendent of Police to the District Crime Branch, Land Grabbing Cell. He would further submit that after conducting enquiry, on 04.12.2018, this case was closed as 'action dropped' and RCS has been served on the petitioner and it has been filed before the concerned Court.

7. In reply, the contention of the petitioners is that no RCS was served and they were not aware of any such proceedings.

8. Considering the rival submissions and also considering the fact this Court had granted stay of the order of the District Registrar, wherein, criminal action was contemplated to be initiated against the petitioners and others, the defacto complainant is the third respondent in the writ petition and the present complaint is on the same allegation except that the third respondent therein had taken the role of defacto complainant and initiated the case, this Court is inclined to grant anticipatory bail to the petitioners, with certain conditions;

9. 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 each execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further condition that;

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

[b] the petitioners shall report before the respondent Police daily at 10.00 a.m for a period of two weeks, 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]**.



[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
03/01/2019

WEB COPY

/ TRUE COPY /

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

TO

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

+1. CC to MR.N.DILIP KUMAR Advocate SR.No.107

PS/JC/SAR-3/07.01.2019/4P/6C

ORDER
IN
CRL OP(MD) Nos.22108 & 22163 of 2018
Date :03/01/2019