

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No. 14678 of 2020

and

CrI.M.P.No.6081 of 2020

B.Lashmi Ammal

... Petitioner

Vs.

State represented by,
The Inspector of Police,
District Crime Branch,
Cuddalore District.

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C.,
praying to enlarge the petitioner on bail in the event of her arrest
in Crime No. 15 of 2020 pending investigation on the file of the
Inspector of Police, District Crime Branch, Cuddalore District.

For Petitioner : Mr.C.D.Johnson

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

(This Case has been heard through Video Conferencing)

The petitioner, who apprehends arrest at the hands of the
respondent police for an alleged offence punishable under Section 420
IPC in Crime No.15 of 2020, on the file of the respondent police,
seeks anticipatory bail.

2.The case of the prosecution as per the defacto complainant
Ravichandran is that the petitioner along with her son and daughter-
in-law agreed to sell their residential property at Thiruppathiri
Pulliyur, Cuddalore to the defacto complainant and had entered into
an unregistered sale agreement dated 12.03.2014 and had taken an
advance of Rs.51,50,000/- and thereafter had refused to sell the
property to the defacto complainant and created him. Hence the
complaint.

3.The learned counsel appearing for the petitioner would submit
that the petitioner is innocent and she has been falsely implicated
in this case. He would submit that the petitioner is the wife of one
Balachandra Chettiyar and the said Balachandra Chettiyar had borrowed
amounts from several persons and since he was unable to pay the
amounts, he had filed insolvency petition in I.P.No.1 of 2015 before
the Principal District Judge, Cuddalore and that the defacto
complainant is also shown as one of the creditors and proposed party

No.8 in the insolvency petition. He would further submit that the petitioner's husband had in fact borrowed only Rs.20,00,000/- from the defacto complainant and that the petitioner's husband had handedover some signed blank documents towards security to the defacto complainant. The defacto complainant by using one of the such documents handedover to him has created a sale agreement as if the petitioner entered into an unregistered sale agreement and taken an amount of Rs.51,00,000/- from him. He further submitted that if sale agreement had been true the defacto complainant would have issued notice for registration of sale and would have also filed a suit for specific performance. Instead of filing the suit for specific performance, the present complaint has been given to knock the property without following the due process of law. Further the petitioner also filed a counter in the insolvency petition, wherein, he has not made any whisper about the alleged sale agreement and if that is so, the defacto complainant would have also included her property in the insolvency petition. He had conveniently not done that and by his criminal complaint, is putting pressure on the petitioner to execute the sale deed in his favour. He further submitted that subsequent to filing of the IP, the husband of the petitioner died on 19.11.2019 and only after the death of her husband the present complaint has been given only for the purpose of victimizing the petitioner. Hence, he prays for grant of bail to the petitioner.

4.The learned Additional Public Prosecutor would submit that the petitioner had entered into sale agreement on 12.03.2014 assuring to sell her residential house and had taken an advance of Rs.51,55,000/- from the defacto complainant and cheated him. Hence, he would oppose for grant of anticipatory bail.

5.The learned counsel for the intervenor/defacto complainant would vehemently oppose the petition stating that the petitioner is the wife of one Balachandra Chettiyar. The petitioner had entered into un registered sale agreement with the defacto complainant and taken an amount of Rs.51,55,000/- on the assurance of selling her residential house to the defacto complainant and thereafter, had cheated the defacto complainant.

6. Heard the counsels and perused the documents on record.

7. Taking into consideration the facts and submissions made by the learned Counsels, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

8. Accordingly, the petitioner is directed to be released on bail in the event of arrest or on her appearance, within a period of fifteen (15) days from the date of receipt of a copy of this order, the petitioner shall 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Judicial Magistrate-III, Cuddalore District, failing which, the petition for anticipatory bail shall stand dismissed and on further condition

[a] the petitioner 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 petitioner shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks and every monday at 10.30 a.m., until further orders.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner 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 229A IPC.

9. With the above directions, this Criminal Original Petition is ordered.

-sd/-

08/10/2020

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 JUDICIAL MAGISTRATE,
NO.III, CUDDALORE DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
CUDDALORE DISTRICT.

<https://hcservices.ecourts.gov.in/hcservices/>

5 THE PRINCIPAL DISTRICT JUDGE,
CUDDALORE.

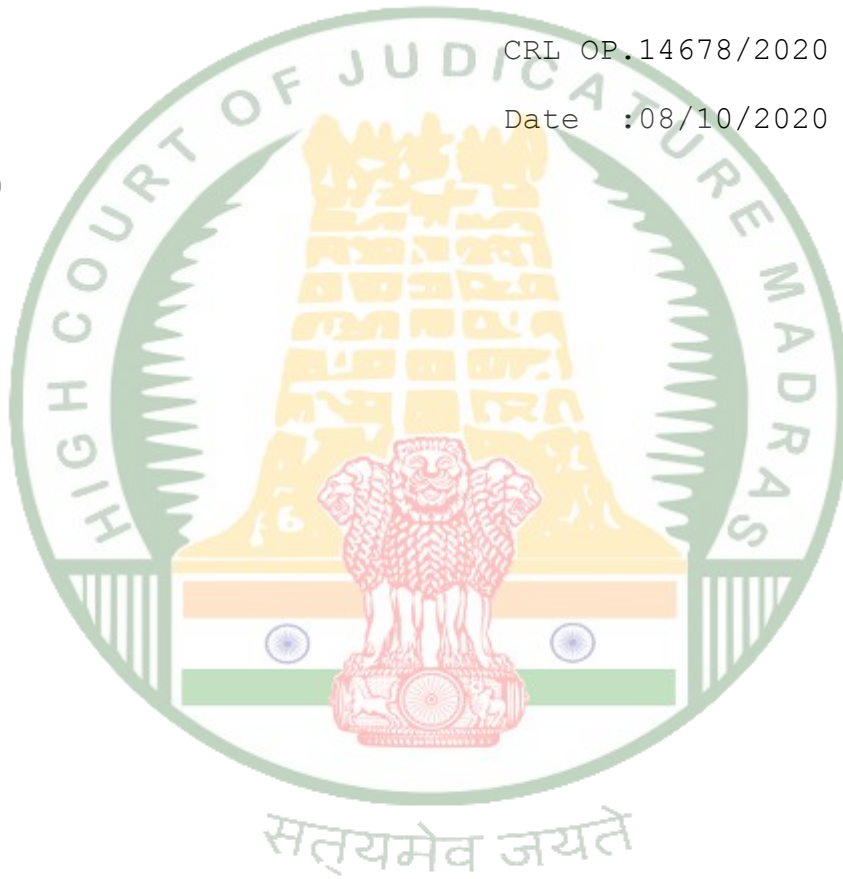
CC to M/S. C.D .JOHNSON Advocate on payment of necessary
charges

CC to M/S. R.SENTHIL Advocate on payment of necessary charges
SR.6909

CRL OP.14678/2020

Date :08/10/2020

RVR 16/10/2020



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