

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2020

CORAM

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

Crl.O.P.No.31468 of 2019

E.Magimairaj

... Petitioner/Accused 4

Vs.

The State Rep. By
The Inspector of Police,
Anti Land Grabbing Special Cell,
Central Crime Branch - II,
Crime No.51/2019. ... Respondent/Complainant

PRAYER: Criminal Original petition has been filed under Section 482 of the Criminal Procedure Code to set aside the Docket Order dated 7.11.2019 made in Crl.M.P.SR.No.5081 of 2019 and to modify the order passed in Crl.M.P.NO.5190 of 2019 dated 19.10.2019 by the Principle Judge, Thiruvallur, directing the Petitioner/Accused to surrender before the Trial Court and order the Bail absolute.

For Petitioner : Mr.V.Balu

For Respondent : Ms.S.Thankira
Government Advocate
(Crl. Side)

O R D E R

This Criminal Original petition has been filed seeking to set aside the Docket Order dated 7.11.2019 made in Crl.M.P.SR.No.5081 of 2019 and to modify the order passed in Crl.M.P.No.5190 of 2019, dated 19.10.2019 by the Principle Judge, Thiruvallur, directing the Petitioner/Accused to surrender before the Trial Court and order the Bail absolute.

2.The learned counsel for the petitioner submitted that the petitioner is arrayed as A4 and the allegation he faces is that certain property which belong to the defacto complainant was sold to A4 by A1 and A2, who posed themselves as the owner of the property and constituted A3 as their power of attorney. The agreement of sale was executed by A3.

3.The learned counsel for the petitioner submitted that in terms of the agreement of sale, no sale deed was executed and no title to the property was also conveyed to the petitioner since the document executed in favour of the petitioner is only an agreement of sale, that the petitioner has already parted with Rs.5,00,000/- under the agreement of sale and he is as much a victim as the original owner of the property was. He further submitted that the petitioner moved for bail before the Principal District and Sessions Court, Tiruvallur in CrI.M.P.No.5190 of 2019. The learned Sessions Judge granted interim bail to the petitioner with a direction to cancel the sale agreement executed in his favour by A3, as the power of attorney of A1 and A2.

4.The learned counsel for the petitioner added that even though the petitioner was released on interim bail, the petitioner could not cancel the sale agreement since the Sub Registry required the participation of A3 in the document. At the relevant time, A3 was in judicial custody. Subsequently, when A3 was released on bail, both A3 and the present petitioner joined to execute cancellation of the earlier sale agreement and had the same registered before the Sub Registry. Under these circumstances, when the petitioner approached the Sessions Court to make absolute the interim bail earlier granted, the trial Court Vide the impugned order returned the same on the ground that the petitioner has not surrendered before the Sessions Court or the concerned Magistrate Court after complying with the condition in terms of the earlier bail order.

5.This Court perused the typed set of papers, which inter alia contains the copy of the earlier order passed by the Principal District and Sessions Court, Tiruvallur in CrI.M.P.No.5190 of 2019 and further, it is seen that cancellation of the sale agreement was entered into between the present petitioner and A3 and that the defacto complainant has been put in possession of the property.

6.The learned counsel for the petitioner submitted that the petitioner was not informed adequately about the legal consequences of what is to be done post cancellation of the sale agreement to make the interim bail granted absolute. This is not wanton but, an inadvertant oversight which has occasioned the petitioner believe cancellation of the sale agreement itself would automatically make the interim bail absolute.

7.This Court finds merit in the said statement of the learned counsel for the petitioner. The interim bail already granted to the petitioner in CrI.M.P.No.5190 of 2019 on 19.10.2019 is made absolute.

8.The Criminal Original Petition is allowed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Inspector of Police,
Anti Land Grabbing Special Cell,
Central Crime Branch - II, Chennai-7.
Crime No.51/2019.
- 2.The Principal District and Sessions Court,
Tiruvallur.
- 3.The Public Prosecutor,
Madras High Court.

Cr1.O.P.No.31468 of 2019

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srg 10/02/2020

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