



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 29/10/2020

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

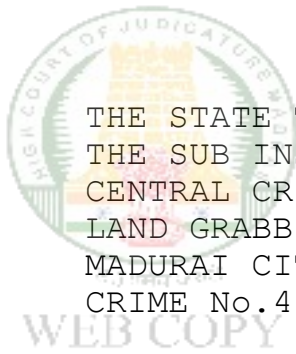
**CRL OP(MD). Nos. 9265, 9360, 9317, 9458,
9107, 8929 & 8643 of 2020**

B.S.MANIKANDAN	... PETITIONER/ACCUSED No.9 in CRL OP(MD)No.9265 of 2020
1.S.MURUGESAN	... PETITIONER/6 th ACCUSED
2.S.KANTHASAMY	in CRL OP(MD)No.8643/2020
	... PETITIONERS/ACCUSED A7 & A8
	in CRL OP(MD)No.9360 of 2020
R.SARASWATHI	... PETITIONER/ACCUSED No.2
	in CRL OP(MD)No.9317 of 2020
S.RAJENDRAN	... PETITIONER/ACCUSED NO.1
	in CRL OP(MD)Nos.9458&8929 of 2020
1.SENTHILVEL	
2.SIVAKAMASUNDARI	...PETITIONERS/ACCUSED Nos.3 and 4
	in CRL OP(MD)No.9107 of 2020

Vs

THE STATE THROUGH THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH, MADURAI. CRIME NO.28 OF 2020	... RESPONDENT/COMPLAINANT in CRL OP(MD)Nos.9265,9360 & 9107 of 2020
---	---

THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH(DCB), OFFICE PREMISES AT THE SUPERINTENDENT OF POLICE, MADURAI DISTRICT. CRIME NO.28 OF 2020	... RESPONDENT/COMPLAINANT in CRL OP(MD)Nos.9317 & 9458 of 2020
---	--



THE STATE THRO'
THE SUB INSPECTOR OF POLICE
CENTRAL CRIME BRANCH,
LAND GRABBING DEPARTMENT,
MADURAI CITY, MADURAI.
CRIME No.41/2020.

... RESPONDENT/RESPONDENT/COMPLAINANT
in CRL OP(MD) No.8643 of 2020

THE SUB INSPECTOR OF POLICE,
CCB (ALGSC) POLICE STATION,
MADURAI CITY.
CRIME No.41/2020.

... RESPONDENT/COMPLAINANT
in CRL OP(MD) No.8929 of 2020

V.S.MAHALINGAM

... INTERVENING PETITIONER/DEFACTO COMPLAINANT
IN CRL MP(MD)No.4206/2020 IN CRL OP(MD)No.8643/2020

For Petitioner : Mr.S.LOGANATHAN Advocate
in CRL OP(MD)No.9265 of 2020
Mr.C.M.ARUMUGAM, Advocate
in CRL OP(MD)Nos.9317, 9458, 8929 of 2020
Mr.N.MURUGESAN, Advocate
in CRL OP(MD) No.8643/2020
Mr.R.BABU JAGANATH, Advocate
in CRL OP(MD) No.9360 of 2020
Mr.R.ANAND, Advocate
in CRL OP(MD) No.9107 of 2020

For Respondents : Mr.R.EROTTUCHAMY,
Government Advocate(Criminal Side)
in all the Petitions

For Intervener : MR.KARTHIKEYN, Advocate
in CRL OP(MD)No.8643/2020

PETITIONS FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

COMMON PRAYER :- For Anticipatory Bail in Crime Nos. 28 & 41 of 2020
on the file of the Respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioners/A-2, A-3, A-4, A-7, A-8 & A-9 apprehending arrest at the hands of the respondent police for the offences punishable under sections 120B, 468, 471, 419, 406 and 420 of IPC, in Crime No.28 of 2020 on the file of the District Crime Branch, Madurai District and the petitioners/A-1 & A-6 for the offences punishable under Sections 419, 420, 463, 465, 468, 471 & 120B of IPC, in Crime No.41 of 2020 on the file of the Central Crime Branch, Land Grabbing Department, Madurai, seek anticipatory bail.

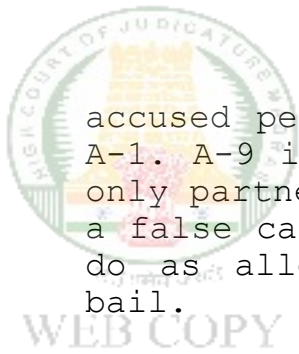


2. The case of the prosecution is that A-1/Rajendran in Crime No.28 of 2020 has executed a sale deed in favour of the defacto complainant, namely; V.S. Mahalingam, in respect of 13 items of properties situated in Samanatham Village & Chinthamani Village @ Madurai South Taluk, Madurai, in document No.4786 of 2013 and again on 25.06.2013, he executed an another sale deed for the very same properties in favour of A-2, who is A-2 in Crime No.41 of 2020. Further, it is alleged that he had cancelled the sale deed executed in favour of the defacto complainant by impersonating the defacto complainant and registered the same. Hence, there are two complaints registered by the Sub-Inspector of Police, CCB (ALGSC) Police Station, Madurai City in Crime No.41 of 2020 and another FIR by the Inspector of Police, District Crime Branch Police Station, Madurai District in Crime No.28 of 2020. Hence, the complaint.

3. Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl. Side) appearing for the respondent.

4. The learned counsel appearing for A-1 in both the crime numbers submitted that, now the said properties, which were sold out in favour of the defacto complainant, namely; V.S. Mahalingam, now is in possession and enjoyment of the defacto complainant. The sale deed executed in favour of A-2 in respect of very same properties now has been cancelled by the District Registrar, Madurai. Infact, the defacto complainant also filed a suit in O.S. No. 130 of 2016 on the file of the learned District Munsif, Madurai Taluk, for declaration, declaring that the sale deed executed in favour of A-2 as '*null and void*' and in which A-1 has filed written statement stating that the suit may be '*decreed as prayed for by the defacto complainant*' and also filed a memo to that extent and the suit is pending. He further submitted that, though, the sale deed executed in favour of A-2 was cancelled, the subject properties were already attached by the Income-Tax Department for non-payment of tax due, by A-1. During the pendency of anticipatory bail before this Court, A-1 has submitted a representation before the Income-Tax department stating that the properties which were attached for tax due payable by A-1 is less than the value of the properties which were attached. Considering the representation submitted by A-1, the Tax Recovery Officer, Madurai lift the attachment over the subject properties in this crime, by order, dated 21.10.2020. Therefore, now the dispute has been settled by A-1 along with the other accused persons and therefore, the custodial interrogation of the petitioners does not require in this case. He further submitted that for the very same set of allegations two FIRs have been registered by the District Crime Branch, Madurai as well as Central Crime Branch, Land Grabbing Department, Madurai, in Crime Nos.28 and 41 of 2020.

5. Insofar as the other accused persons are concerned, their respective learned counsels have represented that some of the



accused persons have stood as attestor in the document executed by A-1. A-9 is a document writer and A-3 & A-4 are concerned they are only partners of the defacto complainant and to wreck the vengeance, a false case has been foisted against them and they have nothing to do as alleged by the prosecution. Hence, they seek anticipatory bail.

6. The learned counsel appearing for the intervener submitted that A-1 has filed a written statement in O.S. No.130 of 2016 before the Court below stating that the suit may be 'decreed as prayed for by the defacto complainant'. He further submitted that the very same properties have been attached by the Income-tax department for tax due payable by A-1, though, the defacto complainant is in enjoyment and possession of the subject properties. Since the possession has been taken by the Income-Tax department, he vehemently opposed to grant anticipatory bail to the petitioners.

7. It is seen that there are two FIRs have been registered, for the offences punishable under sections 120B, 468, 471, 419, 406 and 420 of IPC, in Crime No.28 of 2020 on the file of the District Crime Branch, Madurai District and for the offences punishable under Sections 419, 420, 463, 465, 468, 471 & 120B of IPC, in Crime No.41 of 2020 on the file of the Central Crime Branch, Land Grabbing Department, Madurai. There are six accused persons. The crux of the allegation is that A-1 has sold out the subject properties in favour of the defacto complainant by the registered sale deed, on 14.03.2013, vide document No.4786/2013. Again, the very same properties were sold out by A-1 in favour of A-2 by the registered sale deed, dated 25.06.2013. Further, it is seen that the very same properties have been attached by the Income-Tax department for tax due payable by A-1 and the said fact was suppressed by A-1 and sold out the same in favour of A-2. Thereafter, on the complaint lodged by the defacto complainant, the District Registrar, Madurai cancelled the sale deed executed in favour of A-2.

8. On perusal of the typed set of papers filed by A-1 revealed that, by order, dated 21.10.2020 the subject properties were already attached by the Income-tax department. The relevant portion of the order is extracted hereunder;

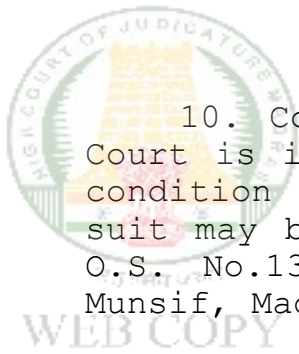
"2. You are hereby required to lift attachment made over the immovable properties being land situated in Samanatham Village & Chinthamani Village @ Madurai South Taluk, Madurai at various survey numbers and owned by the assessee.



**SPECIFICATION OF PROPERTIES WHERE ATTACHMENT IS
TO BE LIFTED**

S.No.	Survey No.	Extent of land (in Acres)
01.	76/3A	0.50
02.	85/10	0.28
03.	85/18B	0.15
04.	85/5	0.40
05.	85/6	0.30
06.	85/8	0.26
07.	86/11	0.10
08.	86/13B	0.20
09.	86/14	0.21
10.	87/11A	0.14
11.	87/11B	0.30
12.	87/11C	0.12
13.	87/11D	0.18
14.	87/12	0.18
15.	87/13	0.09
16.	87/14	0.18
17.	87/1B	0.05
18.	87/4	0.17
19.	87/5	0.13
20.	87/7A	0.19
21.	87/7B	0.09
	TOTAL	4.11

9. It is also seen that the tax payable by A-1 is Rs.1,40,70,775/-in which the properties were attached for the income-tax value at Rs.9,73,24,400/-. Therefore, considering the above facts and circumstances, the Tax Recovery Officer, Madurai has lift the attachment, insofar as the subject properties are concerned, by order, dated 21.10.2020. Further, admittedly, the defacto complainant is in possession and enjoyment of the subject properties which were purchased from A-1 and A-1 has also filed a written statement stating that the suit may be '*decreed as prayed for by the defacto complainant*' in O.S. No. 130 of 2016 on the file of the learned District Munsif, Madurai Taluk. Further, cancelled the sale deed executed in favour of A-2 was cancelled by the District Registrar, Madurai. Therefore, the custodial interrogation of the petitioners do not require in both the crime numbers.



10. Considering the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners on condition that A-2 shall file a written statement stating that the suit may be '*decreed as prayed for by the defacto complainant*' in O.S. No.130 of 2016 on the file of the learned District Taluk Munsif, Madurai, forthwith.

11. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of four weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.I, Madurai, 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 to 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 first petitioner shall report before the CCB (ALGSC) police station, Madurai City, daily morning at 10.30 a.m., without fail, for a period of Four Weeks and thereafter as on 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/petitioners thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
29/10/2020

/ TRUE COPY /

/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1.THE JUDICIAL MAGISTRATE NO.I, MADURAI.
- 2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.
- 3.THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, MADURAI
- 4.THE SUB INSPECTOR OF POLICE
CENTRAL CRIME BRANCH,
LAND GRABBING DEPARTMENT,
MADURAI CITY, MADURAI.
- 5.THE SUB INSPECTOR OF POLICE,
CCB (ALGSC) POLICE STATION,
MADURAI CITY.
- 6.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

- +1. CC to MR.G.GANDHI, Advocate SR.No.7215
+1. CC to MR.N.MURUGESAN, Advocate SR.No.7214

ORDER

IN

CRL OP(MD).Nos.9265, 9360, 9317, 9458,
9107, 8929 & 8643 of 2020

Date :29/10/2020

KSA

PK/SMA/SAR-III/18.11.2020 : 7P/9C