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Crl.O.P.(MD)Nos.16995 and 16996 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.05.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)Nos.16995 and 16996 of 2019

The State Rep. by
The Inspector of Police,
Central Crime Branch,
Madurai,
Madurai District.
(In Crime No.21 of 2019)

... Petitioner
in both Crl.O.Ps.

Vs

V.Prakash

... Respondent
in Crl.O.P. (MD)No.16995 of 2019

1.P.Senthilkumar @ Athalai Senthilkumar

2.S.Palanikumar @ Thodu Kumar

... Respondents
in Crl.O.P. (MD)No.16996 of 2019

Prayer in Crl.O.P. (MD)No.16995 of 2019: Petition filed under Section 439(2) Code of Criminal Procedure, to cancel the anticipatory bail granted to the respondent in Cr.M.P.No.5845 of 2019, dated 01.11.2019 passed by the learned Principal Sessions Judge, Madurai.

Prayer in Crl.O.P. (MD)No.16996 of 2019: Petition filed under Section 439(2) Code of Criminal Procedure, to cancel the bail granted to the respondents 1 and 2 in Cr.M.P.No.4976 of 2019, dated 03.10.2019 on the file of the learned Principal Sessions Judge, Madurai.

For Petitioner : Mr.A.Robinson
Government Advocate (Crl.side)

For Respondents: Mr.G.Prabhu Rajadurai
for Mr.C.Karthikeya
(in both Crl.O.Ps.)

COMMON ORDER

The respondents herein are figuring as accused in Crime No.21 of 2019 registered on the file of the Central Crime Branch, Madurai City.



2.The respondent in Crl.O.P.(MD)No.16995 of 2019 was granted anticipatory bail, while the respondents in Crl.O.P.(MD)No.16996 of 2019 were granted regular bail. Seeking cancellation of the aforesaid orders granting anticipatory bail and bail, these criminal original petitions have been filed by the prosecution.

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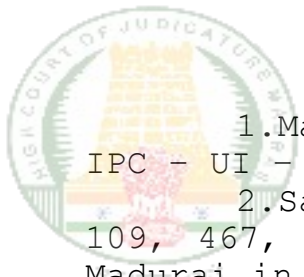
3.This Court heard the matter at considerable length. The defacto complainant, in this case, is one Backialakshmi. Senthil Kumar @ Athalai Senthil Kumar is figuring as A1. His wife is figuring as A2. Palani Kumar is figuring as A3. Prakash is figuring as A4.

4.The allegation of the defacto complainant Backialakshmi is that she is also having an undivided share in Survey No.251/3 at Duraisamy Nagar, Bypass Road, Madurai, measuring an extent of 54 cents. According to the defacto complainant, there are totally four family members having right over the property namely 1.Pachiammal 2.Periyalakshmi 3.Ammachi and 4.Chinna Lakshmi @ Lakshmi. Out of the said four persons, two of them namely Pachiammal and Periyalakshmi are no more. Chinna Lakshmi @ Lakshmi has relinquished her share by registered deed on 21.03.2013 to Ammachiammal. Out of 54 cents, 25 cents was sold to A1 Senthilkumar, 19 cents to A2 Palanikumar and 10 cents to A3 Prakash. These three persons proposed to sell the property to one Mahalingam and one Kumar. Those two purchasers after verifying the title documents wanted the vendors to obtain release deed from the other legal heirs who are also having right over the property. Since many of the other legal heirs were not willing to come forward, the aforesaid three persons fabricated the document which involved execution by persons who impersonated as if they are the original legal heirs before the registering authority. To effectuate this, even fake ID proofs and Aadhar Cards were produced. After doing so, A1-P.Senthil Kumar @ Athalai Senthilkumar and A3-V.Prakash sold their 35 cents to Mahalingam and others. A2-Palanikumar gave power of attorney for the remaining 19 cents in favour of one Sekar, Karur.

5. Even though the allegations are very serious and the antecedents of Senthilkumar @ Athalai Senthilkumar and Palanikumar are also bad, the learned Sessions Judge had shown an indulgent approach. It is true that this Court had granted anticipatory bail to the wife of the main accused and also the registering authority. Grant of relief to those persons could not have been cited as a reason for showing indulgence to the respondents herein. The learned Sessions Judge erred in relying on the orders granted by this Court to some of the co-accused who stood on an entirely different footing altogether.

6.The prosecution has shown that Senthilkumar @ Athalai Senthilkumar is involved in as many as four cases which are as follows:-

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



- 1.Madurai District - 1.DCB 185/12 U/S 420, 423, 467, 468, 109 IPC - UI - A2 Athalai Senthil - not arrested.
- 2.Samayanallur PS Cr.No.302/14 U/S 406, 420, 471, 120(B), 109, 467, 468 IPC A3 Athalai Senthil- PT in Land Grabbing Court, Madurai in CC No.09/19
- 3.Samayanallur PS Cr.No.37/15 U/S 417, 468, 420, 471, 506(ii) of IPC - A2 Athalai Senthil - not arrested.
- 4.Samayanallur PS Cr.No.343/11 U/S 4(1)a TNP Act & 171(E) IPC - Convicted.

7.In fact, during the pendency of these petitions, Senthil kumar was implicated in Crime No.9 of 2020 registered on the file of the District Crime Branch, Madurai. Likewise, Palani Kumar is involved as an accused in Crime No.527 of 2016 registered on the file of the Erode North Police Station for the offences under Sections 302, 201, 419, 120(B), 364, 109 IPC. But then, I propose to give a disposal of these petitions on a different ground altogether. During the course of hearing, the purchaser Thiru.Maha Lingam appeared before this Court and narrated his tale of woe. He also filed an affidavit before this Court. Thiru.V.S.Maha Lingam claims to have paid a sum of Rs.2, 94,97,830/-. But then, the respondents herein appear to have received only a sum of Rs.76,22,830/- by bank account transfer, while receiving the remaining amount through cash. Thiru.V.S.Mahalingam appears to be a bigger victim than the defacto complainant Backialakshmi. The loss suffered by Thiru. V.S.Mahalingam is independent and it constitutes a cause of action by itself. Since the allegations made by Thiru. V.S.Mahalingam clearly disclose the commission of cognizable offences, I direct the Inspector of Police, CCB, Madurai, to record a fresh statement from Thiru.V.S.Mahalingam and register an FIR on that basis and take action as per law.

8.These Criminal Original Petitions are disposed of with these directions.

Sd/-

Assistant Registrar ()

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Sub Assistant Registrar(CS)

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To

1.The Principal Sessions Judge, Madurai.



2.The Inspector of Police,
Central Crime Branch,
Madurai,
Madurai District.

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3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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20.05.2020

NR(29.05.2020) 4P 4C