



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 06/01/2020

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PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL OP (MD) . Nos.19590 and 19638 of 2019

1.K.Chitra	... Petitioner/Accused No.3
	in Crl.O.P. (MD)No.19590 of 2019
2.A.Kumar	
3.A.Manikandan	... Petitioners/Accused 1 & 2
	in Crl.O.P. (MD)No.19638 of 2019

Vs

State rep. by	
The Inspector of Police,	
S.S. Colony Police Station,	
Madurai,	
Crime No. 1353/2019.	... Respondent/Complainant
	in both petitions

For Petitioner
(in Crl.O.P. (MD)No.19590 of 2019)
: M/s S.Gokulraj,
Advocate.

For Petitioners
(in Crl.O.P. (MD)No.19638 of 2019)
: M/s.G.Mohankumar,
Advocate.

For Respondent : Mr.A.Robinson,
(in both petitions) Government Advocate (Crl.Side)

For Intervenor : Mr.R.Anand, Advocate
(in both petitions)

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

COMMON PRAYER :-

For Anticipatory Bail in Crime No.1353/2019 on the file of the Respondent Police.

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



COMMON ORDER : The Court made the following order :-

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

2.The petitioners herein are figuring as accused in Crime No.1353 of 2019, registered on the file of the Inspector of Police, S.S.Colony Police Station for the offences punishable under sections 448, 427 and 506(ii) of I.P.C., seek anticipatory bail.

3.The case of the de-facto complainant is that the property bearing Door No.208/1, Theni Main Road, virattipathu, Madurai-16, belongs to the family of the de-facto complainant. It is a commercial complex. It is a three storied building. The de-facto complainant would allege that since A-1/Kumar assured them that based on the property, they would be able to obtain loan, a power of attorney was executed in favour of A-2/Manikandan on 11.09.2015. The complaint reads that without giving a proper accounts as per the power deed, A-2 executed a sale deed dated 01.12.2015 in favour of A1/Kumar. It is mentioned in the sale deed as if a sum of Rs.35,00,000/- was received as sale consideration. In this regard, the de-facto complainant is said to have given a complaint as early as on 25.10.2015 to the Anti Land Grabbing Cell. It is also seen that a flurry of complaints were given to the District Administration as well as the Registering Authorities. It is further seen that the complaints were given before the police authority also. The de-facto complainant and his brother and mother filed O.S.No.140 of 2016, before the Additional District Munsif Court, Thirumangalam for nullifying the offending transactions. An exparte decree came to be passed on 17.07.2018. Challenging the same, the defendants in the suit namely, Kumar and Manikandan filed CRP(NPD) (MD).Nos.542 and 543 of 2019. These revision petitions were allowed on 20.06.2019 and the Court below was directed to dispose of the suit within a period of six months.

4.The de-facto complainant would allege that all along they were in possession of the suit property and that with full knowledge of the pending proceedings, A-3/Chithra purchased the property in question from A-1 on 23.07.2019. Thereafter, on 29.11.2019 at about 2.15 p.m., A-3/Chithra along with about 30 persons entered into the complex in question and caused extensive damage to the articles in the building. They had also sealed the premises. The de-facto complainant immediately gave an emergent phone call through 100 to the police. Based on the complaint lodged by Vignesh, Crime No.1353 of 2019 has been registered for the aforesaid offence.

5.The learned counsel appearing for the accused/petitioners would submit that as on date, there is no interim order granted in



petitioners are ready to get along with the main suit itself and in the enquiry in the I.A. immediately. He would point out that any findings given in these proceeding will operate to their prejudice and also needlessly tie the hands of the civil court. He also submitted that A-3/Chithra would keep away from the premises in question and that the parties can be mandated to maintain status-quo. He submitted that as of now, the building is under double lock. The petitioner/A-3/Chithra has put one lock while the mother of the de-facto complainant has put another lock.

6.The learned counsel appearing for the intervenor has also filed a detailed typed set of papers enclosing a copy of the exparte judgment made in O.S.No.140 of 2016. He also produced a copy of the monthly electricity consumptions charge collection details.

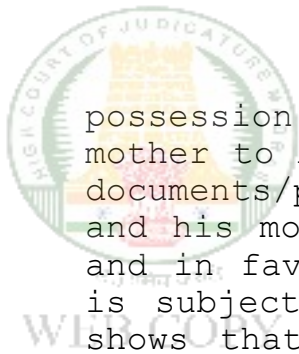
7.I carefully considered the rival contentions and also went through the materials on record.

8.It is beyond dispute that the property in question stood in the name of the family of the de-facto complainant. It is also not in dispute that the de-facto complainant and his mother and brother executed a power of attorney dated 11.09.2015 in favour of Manikandan(A-2). It is again not in dispute that A-1/Kumar is none other than the biological blood brother of A-2/Manikandan. Manikandan has executed a sale deed dated 01.10.2015 in favour of his own brother, namely, Kumar(A-1). Be that as it may, there is absolutely nothing on record to indicate that Manikandan had duly accounted for the said amount. I called upon the petitioners' counsel to place some material to show that Manikandan had duly accounted for all these transactions to his principals. I must categorically record that there is absolutely no material forthcoming in this regard.

9.It is further seen that the de-facto complainant had been submitting complaint after complaint right from October 2015 onwards. These complaints have been marked as Exs.A.1 to A.14 in the exparte judgment dated 17.07.2018 in O.S.No.140 of 2016, on the file of the Additional District Munsif Court, Thirumangalam.

10.It is not in dispute that an exparte decree was passed in favour of the de-facto complainant's family on 17.07.2018 and that the same was set aside by the learned Single Judge of this Court only on 20.06.2019. Thus, for about 11 months, the de-facto complainant and his family members enjoyed the benefit of an injunction decree. It is relevant to note that there was a delay of about 70 days in filing the set aside petition.

11.The de-facto complainant has produced before me the receipt issued by TANGEDCO as late as on 31.10.2019 indicating payment of a sum of Rs.28,700/- towards current consumptions charge and other



possession was ever handed over by the de-facto complainant or his mother to A-1 and A-2. More than anything else, the original title documents/parent documents are still with the de-facto complainant and his mother. In the sale deed dated 23.07.2019 executed by A-1 and in favour of A-3/Chithra, it is mentioned that the transaction is subject to the final judgment of the civil court. It clearly shows that A-3/Chithra was fully aware of the pending litigation between the de-facto complainant on the one hand and A-1 and A-2 on the other. More than anything else, in the bunch of photographs produced by the learned counsel appearing for the intervenor, it is seen that about 30 persons including two advocates had come to the spot and created a scene and succeeded in locking the premises in question.

12.I fail to understand the presence of counsel in such a situation. The police personnel are also found in the scene having an argument with the members of the group brought by A-3.

13.When civil litigation is pending between the parties, the same cannot be short circuited by taking recourse to high handed measures. I can take judicial note of the fact that at least in the city of Madurai, so many such high handed actions took place. That actually led to the very constitution of the Anti Land Grabbing Cell by the Government of Tamil Nadu in the year 2011. I am satisfied from the materials on record that the petitioners herein have chosen to take law into their own hands and short circuit the civil process. It is relevant to mention that Manimala, the mother of the de-facto complainant and the actual contestant in this case, is a widow, who lost her husband in the year 2009. She would state that on account of the loss of her husband and the inexperience of her sons, she was constrained to take the help of A-1 and A-2 and that she had been betrayed. The conduct of the petitioners is such that they are not entitled to the relief of anticipatory bail at the hands of this Court.

14.In view of the above, these Criminal Original Petitions stand dismissed.

sd/-
06/01/2020

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

TO

1 THE INSPECTOR OF POLICE
S.S. COLONY POLICE STATION, MADURAI.

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



2 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+2 CC to M/s.G.MOHANKUMAR, Advocate SR-305 & 306

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ORDER
IN
CRL OP (MD) Nos.19590
and 19638 of 2019
Date :06/01/2020

sj i
JM/VR/SAR 1/28.01.2020/5P/5C