

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**ANTICIPATORY BAIL APPLICATION NO.1806 OF 2021
WITH
INTERIM APPLICATION NO.2239 OF 2021**

G. Mythili Murthy

.. Applicant

Vs.

The State Of Maharashtra

.. Respondent

...

Mr. Abhishek Yende, Advocate for Applicant.

None for the Applicant in IA.

Mr.R.M. Pethe, A.P.P. for the State-Respondent.

...

CORAM : PRAKASH D. NAIK, J.

DATE : 21st SEPTEMBER, 2021

PC.

1. This is an application for anticipatory bail in C.R. No.I-59 of 2021 registered with Kolsewadi Police Station, Kalyan for the offence punishable under Sections 341, 406, 420, 467 and 468 read with 34 of the Indian Penal Code. The First Information Report (for short "FIR") was registered on 17.02.2021.

2. The case of the prosecution is that complainant is the daughter of Ramchandra Murthy Gadepalli. Her father had purchased the premises in Arjun Apartment Room No.3 at Kolsewadi, Kalyan in 1986. The complainant is nominee in the said property. The applicant was a caretaker. Father of complainant had expired on 03.12.2020 in Star City Hospital,

Kalyan. On 04.12.2020, the complainant visited the said premises and it was found that the applicant was residing at premises with her son. The complainant was restrained from and entering into premises. On questioning the applicant, she stated that he has on the requisite documents in relation to the property. On 14.12.2020, the complainant found that the applicant had put up lock to the premises. Supplementary statement of the complainant was recorded. In the said statement, she stated that her aunt Vijaylaxmi had informed her that the applicant had visited her in the year 1980-81 and she has sought financial help as her husband deserted her. She requested father of the complainant to grant financial help to the applicant. In 1997 when the mother and the complainant was ill, the applicant came to their house to take care of mother. The parents of the complainant is married in 1979. The applicant obtained false marriage certificate and fabricated various other documents and gold ornaments. The documents are fabricated to grab the property belonging to the complainant's father.

3. The applicant preferred an application for anticipatory bail before the Court of Sessions. The said application was rejected by order dated 09.07.2021. While rejecting the application, it was observed that during the investigation, prima facie disclosed that while the applicant was working as caretaker, she also work as PRO in the School conducted by

informant's father. After the death of the complainant's father, the applicant and her daughter had instructed one family employee of the school viz. Gauri Shrinivas Hirdas to make application to concerned Department of Corporation for obtaining death certificate mentioning the name of the applicant as wife of the deceased by posing herself to be the daughter of the deceased and said application was made by the employee of the school. Several other reasons were assigned or refused relief under Section 438 of Cr.P.C. to the applicant.

4. Learned counsel for the applicant submitted that the applicant has been falsely implicated in this case. The applicant is the wife of deceased Ramchandra Gadepalli. She is in possession of several documents to establish the said fact. The entire case relates to the documents. Her custodial interrogation is not necessary. The complainant has worked for several years and lodged the FIR. The FIR has been registered with malafide intention. The applicant got married to the deceased on 24.06.1970 at Kottaya Gudem, Kurnoor District, Andhra Pradesh. She has three children out of the wedlock. Mr. Ramchandra had expired on 03.12.2020. The allegations of the complainant are false. The applicant has several documents to prove that she is legally wedded wife of the deceased. Reliance is placed on several documents mentioned in the application and annexed to this application.

Reliance is also placed on photographs of the applicant with Gadepalli allegedly clicked on 24th June, 1970. The informant has suppressed the material facts before the authority. The Kanyadan of the informant was performed by the applicant in her marriage. The applicant is senior citizen, her custodial interrogation is not necessary.

5. Learned APP submitted that the applicant is involved in fabricated documents. Under Sections 420, 467 and 468 were invoked. The applicant is falsely claiming that she is the wife of Ramchandra Gadepalli. There is no document to establish that the applicant had performed marriage with deceased. The applicant falsely posed herself that she is married to deceased and she is legal heirs of the property of Ramchandra Gadepalli. The informant is a daughter of Ramchandra. On 21.12.1997 mother of the informant viz. Kalavati Gadepalli had expired and the applicant was caretaker of her father. The marriage was allegedly registered on 18.10.2008 at Kalyan Dombivili Municipal Corporation (for short "KDMC"). The date of the marriage certificate mentioned therein which 24.06.1970 it would be that the applicant was minor at the time of marriage. The registration certificate was obtained belatedly. Investigation has revealed that the documents were fabricated by the applicant. The copy of Passport issued to the informant's father has revealed that the name of the spouse mentioned as Gadepalli Kalavati Murthy, who is the mother of

informant is mentioned as wife of the deceased. The said passport issued from 19.03.2001 to 18.03.2011. In the birth certificate, several other aspects were instigated, which indicates that claim of the applicant is false. The complainant has intervened by preferring intervention application.

6. Learned counsel for the intervener submitted that huge valuable property belonging to the complainant's father is attempted to be grabbed by the applicant on the basis of fabricated document. None of the document establish that the marriage was solemnized with the applicant by the father of the informant. Parents of the complainant had assets of Rs.30 crores including landed properties at Kalyna, Karnool and Adoni at Andhra Pradesh. Her late father had established Sai Education Trust, which runs a school by name Sai English School at Kalyan (E.) which provides education to poor and down trodden students. Father of the informant was very sick and unwell. The applicant took undue advantage of the ill-health and emotions of her father and with an ulterior motive to grab the estate of her parents, she alongwith said accused prepared false fabricated document in respect of various properties. The husband of the complainant filed an application before the KDMC for obtaining death certificate of her father, when he learnt that the corporation have received an application from one Gauri Harida as the daughter of applicant. Officers of KDMC had helped the accused in

preparing death certificate mentioning name of the applicant as wife of the deceased, on the basis of false and bogus marriage certificate. On further inquiries, it was revealed that there was no record existed in respect of the alleged marriage registration certificate except an entry made in the register. The annual audit of Marriage Registration Department of D-Ward, KDMC in the year 2008-09, an objection was raised and serial No.48 dated 08.06.2009 disclosed that the marriage registration form of her late father with applicant was not accompanied by wedding card nor there is any affidavit, or Form D of court fees. The intervener made an application on 23.04.2021 under Right to information Act, 2005 and sought information with regard to compliance of irregularities and reply was received that there was no compliance with regard to the irregularities. The complainant was nominated as the nominee in respect of the flat which is occupied by the applicant and her son. The intervener has relied upon the extract of nomination register maintained by the society. After the demise of informant's father, the applicant and other prepared false and fabricated documents and entered into the flat. The accused also prepared false documents to show that the in-laws of son of the applicant were residing at 80-76-H2, Aditya Nagar, Kurnoon, Andhra Pradesh, which is owned by the deceased by showing them as Chairman and Treasurer of the Trust. The applicant prepared bogus documents such as Passport, Aadhar Card and Pan Card by falsely representing

herself as wife of the deceased. The applicant in order to show her as wife of the deceased, instead of renewing his old passport issued for the period of 2001 to 2011 has applied and obtained fresh passport in 2012. The applicant and others had also shown themselves to be associated with the Trust. The Charity Commissioner by order dated 30.04.2016 removed them from Trusteeship. The applicant and other accused had filed suit in Civil Court against the complainant and her husband making false claim that there are in managing and in possession of the school and sought order of restraining them from disturbance. Several other documents were fabricated.

7. I have perused the documents on record. Although, the applicant's claim is that she is the wife of the deceased Ramchandra Gadepalli, prima facie, it is difficult to accept the contention as there is no evidence to support her contention. Prima facie, the complicity of the applicant is disclosed from the documents. The applicant has relied upon several documents which are annexed to this application to establish her claim. Learned APP has placed on record the investigation conducted by the Police. Statement of the witnesses and the investigation papers reveal the involvement of the applicant in the crime. The complainant had claimed that she is the nominee of the subject premises and relied upon the documents in that regard. The claim of the applicant is that she has performed marriage with deceased on 24.06.1970. The

marriage was registered on 18.10.2008, which speaks volume of doubt. Learned Sessions Judge while rejecting the application had observed that if the date of the marriage is accepted to be true than the accused had allegedly performed marriage at the age of 15 years 11 months. Whenever the registration of the child marriage is done as per the law prevailing at relevant time, before registration information to that effect should be given to the concerned police station. No such intimation was given to the police. Investigation also revealed that in the year 2008-09 audit was conducted in the registration office and in the said audit report it was mentioned that intimation about marriage of the minor was not given to the police station. The file of the applicant was disposed on the same date when it was presented for registration by keeping the other files pending for 3 to 6 months and at that time address of both the parties was shown as one and the same and that over writing is also appearing in respect to the date of marriage.

8. During the investigation I.O. got a copy of passport issued to the informant's father Ramchandra Murthy Gadepalli and in the copy of the Passport in the column of spouse the name of Gadepalli Kalavati Murthy, who is the mother of informant is mentioned as wife of the deceased and that this passport was issued for the period from 19.03.2001 to 18.03.2011. In the birth certificate of the informant, her name

is mentioned as Swarnlaxmi Ramchandra Murthy Gadepalli and her date of birth is mentioned as 01.11.1987 and it is issued by Kalyan Dombivli Municipal Corporation Kalyan which shows that informant is the daughter of the deceased. In the copy of the nomination form submitted by the deceased Ramchandra Gadepalli, the informant's father, to the secretary of Golden Cooperative Housing Society Limited, name of the informant Mrs. Swarnlaxmi Giribabu as daughter is mentioned as nominee 100% in respect of the flat and on this nomination form the name and signature of accused Mythili i.e. applicant/accused is there in the capacity of witness and this nomination was filed on 12.12.2008 by the deceased. The copy of the Confirmation Deed dated 27.11.1986 shows that the said flat i.e. Flat No.3 was purchased jointly by informant's mother i.e. Gadepalli Kalavati Ramchandra and informant's father i.e. deceased as the agreement for sale was executed on 08.12.1985 and that the vendor and the purchaser (i.e. informant's mother and father) executed the said confirmation deed in respect of the said flat.

9. During investigation it is disclosed that the audit of marriage registration of KDMC of the period of 2008-09 was done and in the said audit objection was taken in respect of file No.148 i.e. the file of the marriage registration of deceased Gadepalli Ramchandra Murthy and V. Mythili (i.e.the applicant/accused Mythili). Objection is taken by mentioning in the audit report that marriage card was not enclosed and

that as per the rule if the marriage card is not enclosed then the affidavit is also not filed and in this way there is no single evidence as to on which date the said marriage was solemnized and the objection was taken as to how the marriage certificate was issued.

10. During the investigation it is prima facie disclosed that informant's parents' property (i.e. flat, school, landed properties) worth of about Crores is there and that accused Mythili who was acting as caretaker of her father after the death of her mother, tried to grab the same after the death of informant's father.

11. During the investigation prima facie it is also disclosed that deceased and Kalavati Ramchandra Murthy (i.e. the parents of informant) were having only two children i.e. informant's elder brother Harish and the informant and that elder brother of informant died on 21.12.2016 i.e. prior to the death of deceased and the mother of the informant had already died in the year 1997 and in this way informant was only heir left to the deceased and therefore it was natural on the part of the deceased to put the name of the informant as nominee 100% in respect of the said flat.

12. It is prima facie disclosed during the investigation that while doing the work as caretaker of the informant's deceased father, accused Mythili was also doing the work as PRO in the

school (i.e. Sai English School, Katemanivli, Kalyan (E)) run by the informant's father and that after death of the deceased, accused Mythili and Mythili's daughter Srilami Madguru asked one female employee of that school viz. Gauri Shrinivas Hirdas to make application to the concerned Department of Corporation for obtaining death certificate mentioning the name of the accused Mythili as the wife of the deceased by posing herself to be the daughter of the deceased and accordingly that female employee of the school made such application, but later that female employee stated to the Investigating Officer that she made such application at the instance of accused Mythili and her daughter Shrilaxmi Madguru.

13. Taking into consideration the above facts, it is apparent that applicant is deeply involved in fabricating documents. Custodial interrogation is needed. Application deserves to be rejected.

ORDER

- (i) Anticipatory Bail Application No.1806 of 2021 is rejected.
- (ii) Interim Application No.2239 of 2021 stands disposed of.

(PRAKASH D. NAIK, J.)