

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Seventeenth day of March Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice V. BHARATHIDASAN

CRIMINAL ORIGINAL PETITION No.4214 of 2021

1 N.S.GANESH
2 R.ASHOKKUMAR
3 K.BHASKAR

[PETITIONERS / ACCUSED]

vs

STATE REP BY
THE INSPECTOR OF POLICE,
C.C.B (LAND GRABBING CELL),
VEPERY, CHENNAI-600 007.
CRIME NO.144 OF 2018

[RESPONDENT]

For Petitioner : MR.N.R.ELANGO SENIOR COUNSEL FOR
M/S.V.NALINI Advocate

For Respondent : MR.S.KARTHIKEYAN, ADDITIONAL PUBLIC PROSECUTOR

For Intervenor : M/S.DINESHKUMAR Advocate

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

(The case has been heard through video conference)

The petitioners, who apprehend arrest in connection with the case in Crime No.144 of 2018 on the file of the respondent police for the alleged alleged u/s 120-B, 419, 420, 441, 448, 465, 468 and 471 of IPC, seek anticipatory bail.

2. I have heard the learned counsel for the petitioners and the learned Additional Public Prosecutor and also perused the records carefully.

3. There are totally eight accused and the petitioners are said to be arrayed as A3, A7 and A8 respectively. The case of the de facto complainant is that a piece of landed property measuring an extent of **[*]18 cents comprised in S.No.142/13 and 3730 square feet comprised in S.No.142/9** of Tiruvanmiyur Village, Velacherry Taluk, was originally owned by one Srinivasan. He had entered into an agreement of sale with one Indirani Ammal, the mother of the de facto complainant in the year 1976 and he died in the year 1980. Thereafter, the mother of the de facto complainant also died in 1983. Since the legal heirs of the said Srinivasan had

failed to execute the sale deed, the petitioners and the other legal heirs of the said Indirani Ammal had filed a suit in C.S.No.510 of 1984 before this Court which was ended in a compromise. Based on a compromise decree, a sale deed came to be executed in favour of the de facto complainant and the possession of the property was also handed over to him in the year 1985 itself. Now, the allegation is that when that be so, the petitioner and the other accused had set up a case as if the landed property was owned by one Kandasamy and created a bogus legal heirship certificate as if one Thirupurammal was the only legal heir of the said Kandasamy and based on such bogus legal heirship certificate, the said Thirupurammal had bequeathed the property in favour of her son one Balasubramaniam, who in turn had managed to get patta in his favour. The specific allegation against the petitioners is that these petitioners along with A1, who is the main accused had created a bogus legal heirship certificate.

4. The learned senior counsel for the petitioner would submit that the property in question was originally owned by one Kandasamy Gramani, the grand father of the A1 and after his death, the mother of A1 had become the absolute owner of the same by way of inheritance and she in turn had settled the same in favour of A1. The learned senior counsel would further submit the de facto complainant is an utter stranger and does not have any right to claim title over the property in question. While so, he had managed to get a decree by filing a collusive suit and based on the same, he has started claiming right over the property in question.

5. The learned senior counsel would further submit that earlier when the de facto complainant approached this court by way of writ petition seeking a mandamus to the revenue authorities for issuance of a patta in his favour in respect of the property in question, this court while leaving the issue of title open to be decided by the appropriate forum in appropriate case, directed him to approach the appropriate forum. Subsequently, A2 in this case filed a suit in C.S.No.352 of 2015 before this court, which was, later on, numbered as C.S.No.4436 of 2019, and the same has been pending on the file of the II Additional Judge, City Civil Court, Chennai. In the said suit, there was an interim order of injunction granted in favour of the de facto complainant and on appeal, it was confirmed by this court.

6. The learned senior counsel would further submit that the dispute is purely civil in nature and in spite of pendency of civil proceedings, a civil dispute has been converted into criminal case and a false complaint was made. The petitioners are ready to abide by any conditions that may be imposed by this court in the event of granting anticipatory bail to them.

7. The learned counsel for the intervenor would stoutly oppose the petition stating that even though civil disputes are pending between the parties, the allegation is that the petitioners along with A1 created a bogus legal heirship certificate and had set up title over the property and got the patta transferred in the name of A1 and it is nothing to do with the title dispute pending between the parties.

8. The learned Additional Public Prosecutor would submit that there have been civil disputes pending between the parties. The allegation in the present complainant is that the petitioners along with A1 had created a bogus legal heirship certificate and by using the same, effected transfer of a landed property and investigation is still pending.

9. At this juncture, the learned senior counsel pointed out that the 1st petitioner has already filed a petition in CrI.O.P.No.3501 of 2021 on the file of this court seeking to quash the present FIR wherein this court on 09.03.2021 while ordering notice to the respondents, directed the petitioner herein to appear before the respondent police for enquiry and produce whatever the documents available with him to prove his title over the property in question.

10. Considering the submissions made on either side and also the fact that there has been civil litigation pending between the parties in respect of the title over the property in question which has to be decided by civil forum and also the fact that in the quash petition seeking to quash the present FIR, this court has directed the 1st petitioner to appear before the respondent police for enquiry and all other circumstances of the case, this court is inclined to grant anticipatory bail to the petitioners subject to the following conditions :-

a) Accordingly, the petitioners are ordered to be released on bail, in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Special Court for Exclusive Trial of Land Grabbing Cases-II, Egmore at Allikulam, Chennai 600 003, on each of them executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[b] 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.

[c] the petitioners shall report before the respondent police as and when required by the police for interrogation.

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioners shall not abscond either during investigation or trial.

[f] 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 himself /Trial Court as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

With the above directions, this Criminal Original Petition is ordered.

-sd/-

17/03/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

[*]For Being Mentioned (Amended) and In the light of the facts and circumstances of the case, time granted by this court for surrender and execution of surety bonds is extended for a further period of fifteen days from the date of receipt of a fresh certified copy of this order, as per order of this Court dated 01/04/2021

TO

1 THE SPECIAL COURT FOR EXCLUSIVE TRIAL
OF LAND GRABBING CASES-II,
EGMORE, ALLIKULAM, CHENNAI-600 003.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
C.C.B (LAND GRABBING CELL),
VEPERY, CHENNAI-600 007.

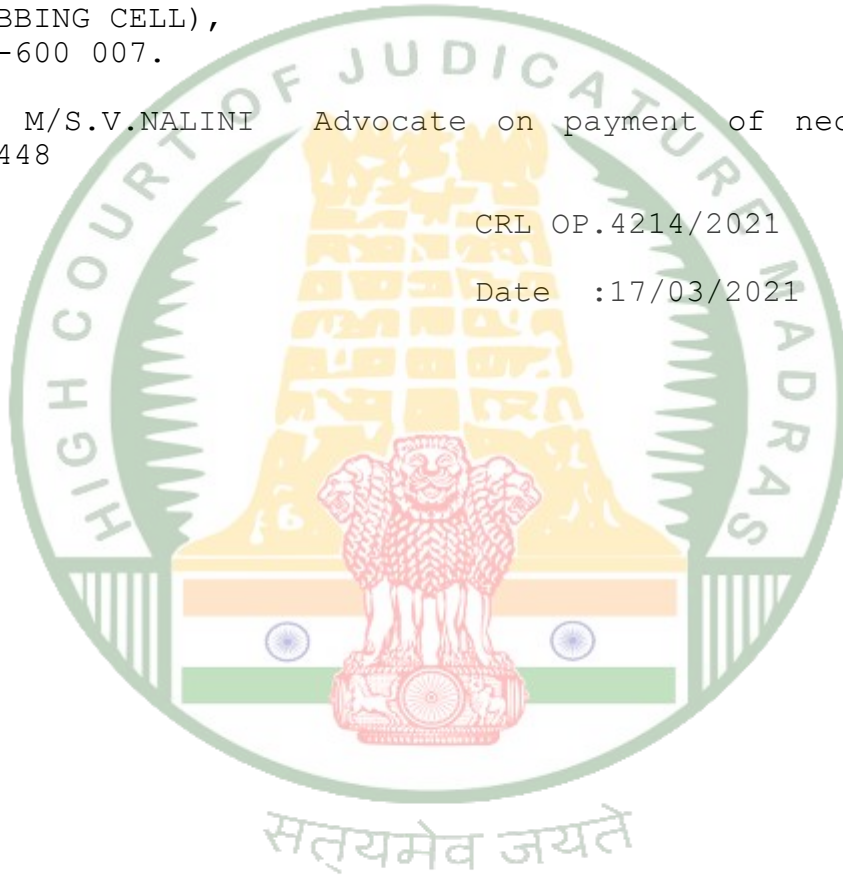
+1CC to M/S.V.NALINI Advocate on payment of necessary
charges SR NO.4448

CRL OP.4214/2021

Date :17/03/2021

MK:25/03/2021

MK:21/04/2021



WEB COPY