

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2021

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.10736 of 2020

R.Dharmalingam

... Petitioner

Vs.

1.N.J.Subramaniam

2.The State rep. by

The Inspector of Police,

CBCID(South) Coimbatore

... Respondent

Prayer: Criminal Original Petition filed under Section 439 (ii) of Cr.P.C.,
praying to cancel the anticipatory bail granted to the first respondent by
this Court through order dated 24.06.2019 in Crl.OP.No.15931 of 2019
on the file of this Court.

For Petitioner : Mr.S.Jeyakumar

For Respondents

For R1 : Mr.ARL.Sundaresan,
Senior Counsel
for Mr.A.L.Gandhimathi

For R2 : Mr.Arun Arumugam
Government Advocate(Crl.side)

ORDER

This Petition has been filed to cancel the anticipatory bail granted to the first respondent in Crl.OP.No.15931 of 2019 by order dated 24.06.2019 by this Court.

2. The learned counsel for the petitioner submitted that on the complaint lodged by the petitioner, the second respondent registered case in Cr.No.2 of 2016 for the offences under Sections 420, 468, 471 and 472 of IPC as against the first respondent and others, in which the first respondent is arrayed as 5th accused. The crux of the complaint is that the first respondent and others fabricated the sale agreement by forging the signature of the petitioner and his family members as if they agreed to sell their property. On the strength of the fabricated sale agreement, they also filed suit for specific performance. Further, they threatened the petitioner to withdrew the suit in OS.No.245 of 2006, which is filed in respect of the subject property owned by the petitioner herein. The first respondent filed petition for anticipatory bail before this Court and this Court granted

anticipatory bail to the first respondent on condition that the petitioner shall not tamper with the evidences or witnesses either during investigation or trial. He further submitted that the second respondent after completion of investigation filed final report deleting some of the accused found in the FIR. It was challenged by way of protest petition and the same was dismissed by the learned Chief Judicial Magistrate, Coimbatore. Aggrieved by the same, the petitioner preferred criminal revision before this Court in Crl.RC.No.967 of 2019 and the same was allowed by this Court by order dated 13.11.2019. Thereafter the second respondent filed final report and the same has been taken cognizance in CC.No.324 of 2018 on the file of the Chief Judicial Magistrate, Coimbatore and it is pending for trial. While pending the trial, the first respondent lodged false complaint and on the false complaint, the petitioner was called for enquiry by the Inspector of Police, District Crime Branch, Coimbatore. In the police station, he was illegally detained and he was threatened to withdraw the complaint pending against the first respondent herein. Therefore, the petitioner also lodged detailed complaint to the Superintendent of Police, CBCID on 02.06.2020. Therefore, it amounts to tamper with the evidence and witness, as such the anticipatory bail granted to the first respondent is

liable to be cancelled.

3. Per contra, the learned Senior Counsel appearing on behalf of the first respondent submitted that this Court while granting anticipatory bail to the first respondent herein imposed the condition that he shall appear before the trial court daily at 10.30 a.m. for a period of two weeks. Accordingly, the first respondent duly complied the condition and after completion of investigation, the second respondent filed final report and the same has been taken cognizance in CC.No.324 of 2018 on the file of the Chief Judicial Magistrate, Coimbatore. The first respondent also regularly appearing before the trial court without fail. In fact, while granting anticipatory bail to the first respondent, the petitioner was also intervened and his contentions were also considered by this Court and granted anticipatory bail. He further submitted that the petitioner threatened for payment of some amount to settle the matter. Therefore, the first respondent was constrained to lodge the complaint before the District Crime Branch, Coimbatore and on receipt of the same, the Sub Inspector of Police, District Crime Branch issued summons to the petitioner for the enquiry to be held on 30.05.2020. However, after enquiry, the

complaint lodged by the first respondent was referred as mistake of fact. Therefore, the first respondent never hampered witnesses or tampered with any evidence and prayed for dismissal of the petition.

4. Heard Mr.S.Jeyakumar, the learned counsel for the petitioner, Mr.A.R.L.Sundaresan, the learned Senior Counsel appearing for the first respondent and Mr.Arun Arumugam, Government Advocate(Crl.side) appearing for the second respondent.

5. The petitioner lodged complaint and the same was registered in Cr.No.2 of 2016 for the offences under Sections 420, 468, 471 and 472 of IPC on the file of the second respondent on the allegation that the first respondent and others fabricated the sale agreement by forging the signature of the petitioner and his family members as if they agreed to sell their property. On the strength of the fabricated sale agreement, they also filed suit for specific performance. Further, they threatened the petitioner to withdraw the suit in OS.No.245 of 2006, which is filed in respect of the subject property owned by the petitioner herein. On the apprehension of arrest, the first respondent approached this Court for

anticipatory bail. In fact, the petitioner was also intervened in the anticipatory bail petition and considering the rival contentions, this Court granted anticipatory bail to the first respondent herein on following conditions.

7. Accordingly, the petitioner is directed to pay a sum of Rs.10,000/- (Rupees ten thousand only) as cost to the Chief Justice Relief Fund, Madras High Court, Chennai within a period of two weeks from the date on which the order copy made ready, and on such payment the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned Chief Judicial Magistrate, Coimbatore on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, each for a likesum 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, failing which, the petition for anticipatory bail shall stand dismissed on the further conditions that:

[a] the petitioner 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 petitioner is directed to pay a sum of Rs.10,000/- (Rupees ten thousand only) as cost to the Chief Justice Relief Fund, Madras High Court, Chennai within a period of two weeks from the date on which the order copy made ready

[c] the petitioner shall report before the trial court daily at 10.30 a.m. for a period two weeks and thereafter on all hearing dates;

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

[e] the petitioner 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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]**.

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

6. Accordingly, the first respondent executed sureties and duly complied the conditions imposed by this Court. The only ground raised

by the petitioner to cancel the anticipatory bail is that the first respondent lodged false complaint in which the District Crime Branch Police Station summoned the petitioner under the guise of enquiry. Thereafter he was illegally detained in the police station and he was compelled and coerced to withdraw the complaint pending against the first respondent herein only on the instigation of first respondent. The learned Government Advocate submitted that after granting anticipatory bail, the first respondent duly complied with the conditions and after completion of investigation, the second respondent filed final report and the same has been taken cognizance in CC.No.324 of 2018. He also submitted that on the complaint lodged by the first respondent as against the petitioner, the petitioner was called for enquiry. Accordingly, the petitioner and the first respondent appeared for enquiry, and after conducting detailed enquiry, the complaint was closed referring as mistake of fact. The petitioner was never detained under illegal custody and he was never compelled to withdraw the complaint.

7. Therefore, this Court finds no merits in this petition to cancel the anticipatory bail granted to the first respondent. Accordingly,

this criminal original petition is dismissed. However, the first respondent is directed to appear before the trial court daily at 10.30 a.m. for a period of two weeks after receipt of copy of this order.

06.01.2021

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
lok

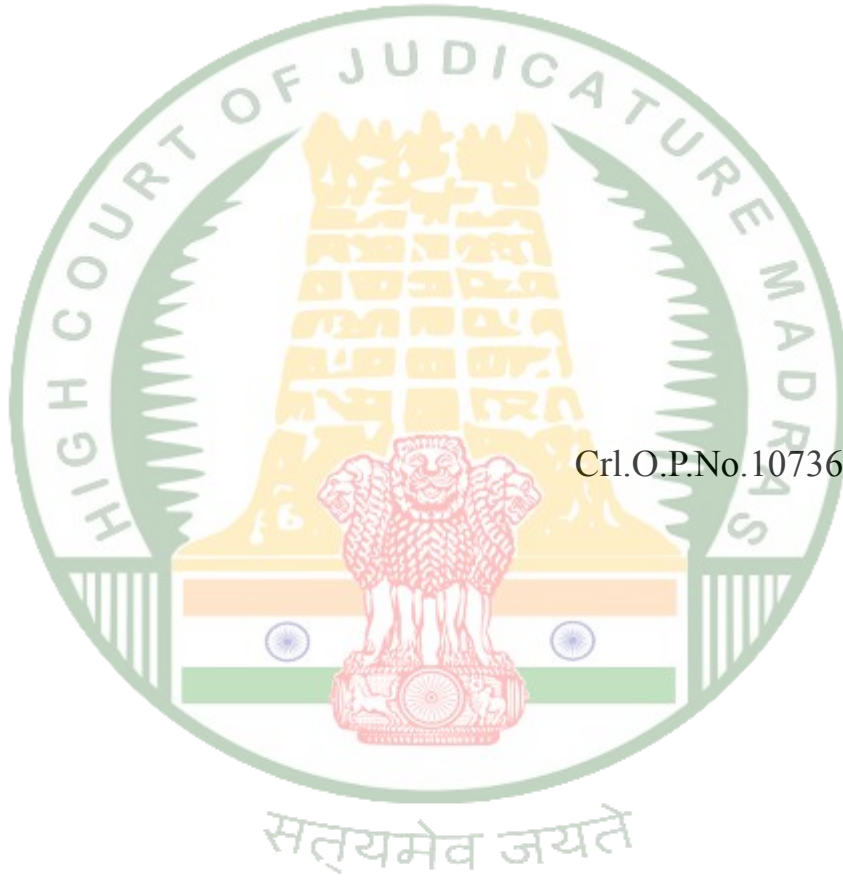
To

1. The Inspector of Police,
CBCID(South) Coimbatore

2. The Public Prosecutor, सत्यमेव जयते
Madras High Court,
Chennai.

WEB COPY

G.K.ILANTHIRAIYAN, J
lok



Crl.O.P.No.10736 of 2020

WEB COPY

06.01.2021