



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 04/02/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.245 of 2021

1. K.Chelliah
2. Pandiyammal

... Petitioners/Accused
(Rank Not Known)

Vs

State Rep.by
The Inspector of Police,
Prohibition of Land Grabbing Special Wing,
Madurai City.
(Crime No.64/20)

... Respondent/Complainant

Srinivas

... Petitioner/ Intervener/
Defacto complainant
in CRL MP(MD)No.819 of 2021
in CRL OP(MD)No.245 of 2021

For Petitioners : Mr.R.Murugappan, Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

For Intervenor : Mr.Prabhu Rajadurai, Advocate
in CRL MP(MD)No.819 of 2021
in CRL OP(MD)No.245 of 2021

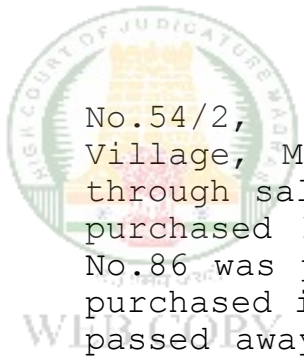
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :- For Anticipatory Bail in Crime No.64/2020 on the file of
the respondent police.

ORDER : The Court made the following order :-

The petitioners/A2 and A1, who apprehend arrest at the hands of
the respondent police for the offences punishable under Sections
465,466,468,471 and 120(B) of IPC seek anticipatory bail.

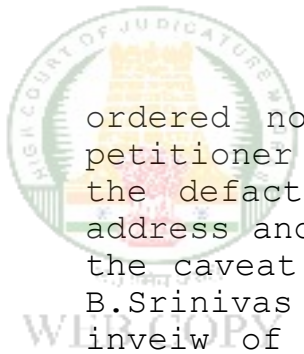
2. The case of the prosecution is that the defacto complainant
had lodged a complaint stating that his grand father Seshaiha Naidu
and grand mother Chinnaponnamal had owned two plots in old Survey



No.54/2, New Survey No.54/1, CIA2B2A situated at Tirupalai Village, Madurai North Taluk. This property was purchased by them through sale deeds in document No.4824 and 4825 of 1950. Plots were purchased by them from Madura Co-operative Labour society. Plot No.86 was purchased in the name of grand father and plot No.87 was purchased in the name of grand mother. In the year 1973 grand mother passed away and thereafter the grand father was in possession and enjoyment of the property. On 27.07.1974 his grand father executed registered Will and he passed away on 13.08.1978 at Thiruvannamiyur, Chennai. Since the defacto complainant was minor his mother Rajathi was nominated as guardian. His mother passed away on 13.02.1979 and his father Balu is the only legal heir for his grand mother and grand father. After the demise of his father Balu the defacto complainant became the absolute owner of the property and was in possession and enjoyment of the same and also making tax payments regularly. The original of the documents namely 4824 and 4825 was found missing when the petitioner was having tea in the Malligai Tea Stall at Tallakulam on 07.02.2019. Thereafter complaint was given and CSR No.323 of 2019 was issued. Notice was also issued with regard to the missing of the above documents. In such circumstances on 31.08.2020 at about 11.00 hrs when the defacto complainant again went to visit the property he found three or four persons visiting the property claiming that the said property belongs to them. The defacto complainant informed them that the property belongs to him, hence they left the place. Suspecting some foul play the defacto complainant caused Encumbrance and found that 26.07.2019 the second petitioner/A1 had caused settlement deed in favour of the first petitioner/second accused as though the property belongs to her and she had settled the property in favour of A2/her husband. A3 and A4 are the witnesses to the said documents. On obtaining the copy of the documents it is seen that in the settlement deed both the dates of death of the grand father and grand mother are been wrongly mentioned and obtained a false legal heir certificate and settled the property. Hence the complaint came to be registered.

3. The learned counsel for the petitioners would submit that the land in plot Nos.86 and 87 belong to the second petitioner and she gave Inam settlement, to the first petitioner and he was in possession of the said property and he obtained Patta in his name as Patta No.2857. The defacto complainant is totally a stranger and he is making false allegation against the petitioners to extort money from the petitioners herein. The defacto complainant had filed caveat against the petitioner on 07.09.2020 before the District Court, Madurai and the Melur Court and on verification of the same it was found that the defacto complainant was not residing in the place mentioned in the caveat. He has also confirmed the same through Right Information Act. Further the defacto complainant is unnecessarily harassing the petitioners with regard to the land, for which the petitioners have also filed not to harass petition

<https://hcservicescourts.gov.in/hcservicescourts> in Crl.O.P(MD) No.11614 of 2020 and this Court



ordered not to harass the petitioners on 16.10.2020. The first petitioner is an Advocate and he had also issued legal notice to the defacto complainant on 21.10.2020 and visited the informant address and found that there is no house at the address mentioned in the caveat. He would also submit that the intervenor herein is one B.Srinivas but the documents are in the name of B.Srinivasan and in view of the same it cannot be stated which Sreenivasan is the rightful person, hence the defacto complainant is not the rightful claimant of the property.

4. The learned counsel for the intervenor would submit that the petitioner is the grand son of Late. Seshaiha Naidu and Chinnaponnamal. The properties in Plot No.86 and 87 in Old S.No.54/2, New S.No.54/1C1A2B2A situated at Thirupalai, North Taluk, Madurai belongs to the petitioners grand parents. On 18.09.1950 the above said properties purchased by the petitioners grand parents from the Madurai Labour Society through two registered sale deeds. The grand mother of the petitioner expired during 1973 and thereafter the grand father had registered a Will in favour of intervenor and he is in possession and enjoyment of the property. The Seshaiha Naidu expired on 23.08.1973 at Thiruvannamiyur, Chennai and on 13.02.1994 the petitioner's mother was also died. On the death of the petitioner's parents the petitioner being the only legal heir on the basis of the above said Will inherited the properties and was in continuous possession and enjoyment. The original of the documents namely 4824 and 4825 was found missing when the petitioner was having tea in the Malligai Tea Stall at Tallakulam on 07.02.2019. Thereafter complaint was given and CSR No.323 of 2019 was issued. Notice was also issued with regard to the missing of the above documents. In such circumstances on 31.08.2020 at about 11.00 hrs when the defacto complainant again went to visit the property he found three or four persons inspecting the property claiming the property belongs to them. The defacto complainant informed them the property belongs to him, hence they left the place. Suspecting some foul play the defacto complainant caused Encumbrance and found that 26.07.2019 and found that the second respondent conveyed the aforesaid properties to the first respondent who is none other than her husband through a forged gift deed. The death certificate, legal heir certificate, settlement gift deed are forged. In the said document it is seen that the grand father of the petitioner died in Madurai in the year 1985 and infact his grand father died on 02.05.1980 at Chennai. He further submitted that in the Will executed by the petitioner's grand father in the year 1974 it is mentioned grand mother passed away earlier. The petitioner had created the forged death certificate. Based on the forged death certificate, legal heir certificate obtained and thereafter forged gift deed prepared claiming title over the property. The petitioners had also verified about the genuineness of the death certificate, legal heir certificate from the authorities. The first petitioner being an advocate using the forged documents and the second respondent claiming to be in possession of the property,



exhorting pressure on the intervenor as though the intervenor is not having any right over the property and they are the original legal heirs. He had filed typed set wherein he had annexed copy of sale deed document, registered Will, Extract of Registrar the registrar of Death, Patta issued by the Tahsildhar, Gazette Notification for change of petitioner's name. All the documents produced by the petitioners were forged one. Hence he opposed to grant anticipatory bail to the petitioners.

5. The learned Government Advocate(Crl.Side) would submit that on the complaint lodged by the petitioners a case came to be registered. It is found that there are two rival claimants over the subject properties. Investigation in this case commenced verifying the documents which are in progress. The petitioner documents to show that the second petitioner is the legal heir of late Seshaiha Naidu and Chinnaponnamal found to be forged. To verify the same, the Inspector of Police had sent communication to the Commissioner, Corporation of Chennai, to ascertain the genuineness of the death certificate of later Seshaiha Naidu who said to have died on 04.09.1985 and the same is registered with Registration No.716 Ward No.48 and the said certificate has been issued on 11.11.1985 and clarification had been sought, now found the said document is a forged one. Further he had sent communication to the Tahsildhar, Madurai(North) to find the veracity of the said document. It is seen that the settlement deed executed by A1 in favour of A2 appears to be forged document and the petitioner claiming right over the property based on the forged documents. The petitioners were earlier called for enquiry they failed to appear and on the other hand they approached this Court seeking anticipatory bail, hence he opposed to grant anticipatory bail to the petitioners.

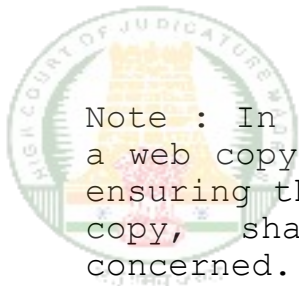
6.After hearing the arguments of the learned counsel for the petitioner, learned counsel for the intervenor and the learned Government Advocate (Crl.Side) and when this Court expressed that the petitioners are not entitled for anticipatory bail, the learned counsel appearing for the petitioners sought permission of this Court to withdraw the petition.

7.In view of the same, the Criminal Original Petition stands dismissed as withdrawn.

sd/-
04/02/2021

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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

WEB COPY

1 THE INSPECTOR OF POLICE,
PROHIBITION OF LAND GRABBING SPECIAL WING,
MADURAI CITY.

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

+1CC to Mr.G.PRABHU RAJADUAI, Advocate (SR-3598[F] dated 05/02/2021)

ORDER
IN
CRL OP(MD) No.245 of 2021
Date :04/02/2021

AAV
MS/PN/SAR-2/22.02.2021/5P.4C