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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on	Pronounced on
09.07.2021	14.07.2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD) . No.2953 of 2021

Rajkumar

... Petitioner/Accused No.4

Vs

The State rep.by,
The Inspector of Police,
District Crime Branch,
Pudukkottai,
Crime No.2/2021.

... Respondent/Complainant

Santhanalakshmi

... Intervener/De facto complainant
in CRL MP(MD) No.1884 of 2021 in
CRL OP(MD) . No.2953 of 2021

For Petitioner : Mr.V.Angusamy, Advocate.
For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor
For Intervenor : Mr.B.Jameel Arasu,
Advocate.

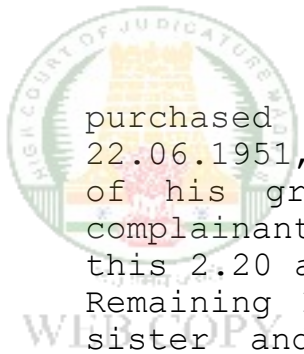
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-For Anticipatory Bail in Crime No.2of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/A.4, apprehending arrest at the hands of the respondent police for the alleged offence punishable under sections 120(B), 419, 420, 465, 468, 471 and 474 I.P.C., in Cr.No.2 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant and her three brothers own a property in Block No.156, T.S.No.11, NGO Colony, Pudukkottai Town, to an extent of 0.2783.0 sqft. This property was purchased by Dr.A.Venugopal Naidu in 1916. He

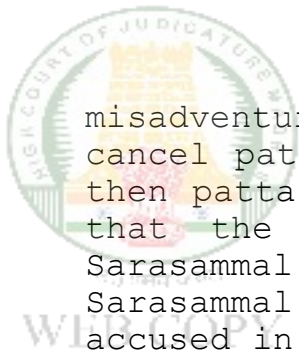


purchased to an extent of 2.20acre in Old Survey No.238H. On 22.06.1951, he executed a Will in respect of this property in favour of his grandson Rengaraj Naidu and the mother of the defacto complainant - Suganthi, who is the sister of Rengaraj Naidu. Out of this 2.20 acres, Rengaraj Naidu sold 1.20 acres to N.G.O. President. Remaining 1 acre was enjoyed by Rengaraj Naidu, Rengaraj Naidu's sister and mother of the defact complainant - Suganthi. On 22.07.1988, Rengaraj Naidu died. He did not marry during his life time and therefore, he died as a bachelor. His sister Suganthi is his legal heir. On 04.05.2005, Suganthi had executed a settlement deed in respect of this property to the defacto complainant and her brothers. While this being so, the accused had in conspiracy with each other, with an intention to usurp the property, had created a forged document. The first accused Sarasammal was made to impersonate as daughter of Rengaraj Naidu. They also created a character as son of Sarasammal in the form of fourth accused. They created settlement deed dated 01.08.2014, wherein it is alleged that the fifth accused had settled the property in favour of the fourth accused. On the steps taken by the defacto complainant, patta granted in favour of the fifth accused was cancelled on 28.07.2016. Patta was granted in favour of Suganthi. Therefore, this case came to be registered on the basis of the complaint given by the defacto complainant.

3. The learned Counsel for the petitioner submitted that the petitioner is innocent and he has been falsely implicated in this case. He produced copies of nativity certificate, death certificate of his mother, Aadhar card, copy of order granting patta in the name of Sarasammal. Then copy of order, ordering to change the patta in his name, order in C.R.P.(MD)No.226 of 2018, order in C.R.P.No.2609 of 2018, proceedings of the District Revenue Officer, Pudukkottai, dated 25.07. copy of the complaint given by the first accused against the defacto complainant etc.

4. According to the learned Counsel for the petitioner, the owner of this property was his mother Sarasammal and it was in her possession and enjoyment and therefore, she was granted patta. After that, patta was changed into his name. The District Revenue Officer, Pudukkottai passed an order dated 25.07.2016 cancelling the patta in the name of Sarasammal and patta was ordered to be issued in the name of Suganthi. The petitioner has taken steps to challenge this order. The petitioner is the genuine owner of the property. Therefore, he prays for anticipatory bail.

5. The learned Counsel for the intervenor/defacto complainant strongly opposes this petition on the ground that Rengaraj Naidu died as a bachelor. The accused, finding that Rengaraj Naidu has no family of his own, conspired together and created a daughter in the form of Sarasammal and a son to Sarasammal in the form of Rajkumar. They managed to get patta initially in the name of Sarasammal and <https://hcservices.hcscourts.gov.in/hcservices>h, in the name of Rajkumar. Finding their



misadventure, even when Suganthi was alive, steps had been taken to cancel patta in the name of Sarasammal and patta was cancelled and then patta was issued in the name of Suganthi. In fact it is seen that the date of birth of Rengaraj Naidu is 08.09.1941 and Sarasammal is 01.01.1945. It clearly and apparently shows that Sarasammal is a character created for the purpose of forgery. The accused in this case with active help of this petitioner, are trying to cheat the defacto complainant to usurp the property of the defacto complainant and hence, he seeks dismissal of this petition.

6. He produced a copy of the sale deed dated 23.02.1916, executed in favour of Dr.Venugopal Naidu, a copy of registered Will dated 02.06.1951, in favour of Rengaraj Naidu and Suganthi, a copy of the sale deed dated 31.07.1970 registered in favour of NGO Sangam by Rengaraj Naidu in respect of 1 acre 20 cents, a copy of the original death certificate of Rengaraj Naidu, dated 22.07.1988, copy of forged death certificate of Rengaraj Naidu, dated 22.07.1988, copy of patta issued in the name of Suganthi, a copy of settlement deed dated 04.05.2005 in favour of the defacto complainant and others by Suganthi and a copy of the forged inam settlement deed dated 26.06.2014, with support of forged patta and TSLR copy, copy of the forged patta in the name of fourth accused date 21.07.2014, copy of the birth certificate of Sarasammal, copy of birth certificate of Rengaraja Naidu, copy of the death certificate of Sarasammal, copy of the cancellation of patta order, dated 25.07.2016, passed by the District Revenue Officer and copy of the forged sale agreement dated 16.10.2020, in support of his case.

7. The learned Additional Public Prosecutor appearing for the State opposes this petition on the ground that the investigation in this case is not yet completed. Further, it is submitted by him that there is a clear evidence available to show that the accused had created a character as a daughter of deceased Rengaraj Naidu and tried to usurp the property from the defacto complainant. Therefore, he seeks dismissal of this petition.

8. Heard the learned Counsel for the petitioner, the learned Counsel for the defacto complainant and the learned Additional Public Prosecutor appearing for the State and perused the materials placed on record.

9. As narrated above, the case of the prosecution is that the accused is conspiracy with each other, had made the fifth accused Sarasammal impersonating as daughter of the deceased Rengaraja Naidu and then, settlement deed was executed in favour of the fourth accused to cheat the defacto complainant. The learned Counsel for the petitioner has filed only the proceedings of the Tahsildar to show that Sarasammal is the owner of the property in dispute. No other title deeds or revenue records filed to show the title possession and enjoyment of Sarasammal in the property in dispute.



10. It is seen from the proceedings of the District Revenue Officer, Pudukkottai, dated 25.07.2016 that patta in the name of Sarasammal was cancelled and patta was ordered to be issued in favour of Suganthi in respect of the disputed property. There is absolutely no other material to show that Sarasammal is the owner of the property. On the other hand, the learned Counsel for the defacto complainant produced copies of sale deed in favour of Venugopal Naidu, Will executed by Venugopal Naidu in favour of Rengaraja Naidu, Sale deed executed by Rengaraja Naidu in favour of NGO, copy of patta issued in the name of Suganthi, copy of settlement deed executed by Suganthi in favour of her children, copy of cancellation of patta by District Revenue Officer, dated 25.07.2016 along with other documents in support of his case. The aforesaid documents clearly proved the right title of the defacto complainant and her predecessors in respect of the property in dispute.

11. The main contention of the learned Counsel for the defacto complainant is that Rengaraja Naidu died as a bachelor. In fact, the petitioner claimed to be a grandson of Rengaraja Naidu through Sarasammal. This claim is falsified by the documents filed by the learned Counsel for the defacto complainant in the form of copies of birth certificate of Sarasammal and Rengaraja Naidu. These documents show that the date of birth of Sarasammal is 01.01.1945 and the date of birth of Rengaraja Naidu is 08.09.1941. It is absolutely impossible for 4 years old boy to procure a child. This one piece of evidence is enough to conclude that Sarasammal is a fictitious character created only for the purpose of cheating the defacto complainant. Since this is an enquiry in anticipatory bail, this Court does not want to go deep into the merits of the case. Suffice it is to say that there is overwhelming evidence available in this case to show that the accused in this case in connivance with each other and with a view to cheat the defacto complainant of her property by impersonation, cheating, forgery etc., had committed the acts aforesaid. Considering the nature of the offence, where the property of the innocent owner is sought to be usurped by impersonation, cheating, forgery, this Court is of the considered view that custodial interrogation of the petitioner is necessary for the purpose of collecting the relevant and important evidence in this case.

12. In this view of the matter, this Court is not inclined to grant anticipatory bail to the petitioner. Accordingly, this Criminal Original Petition is dismissed.

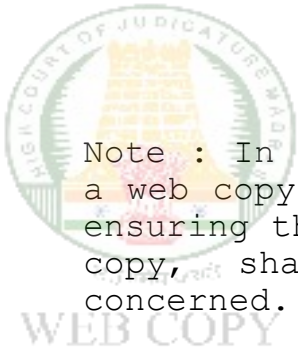
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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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.

TO

- 1 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
PUDUKKOTTAI,
- 2 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.2953 of 2021
Date :14/07/2021

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MK/JC/SAR.IV/16.07.2021/5P/3C