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

Reserved on	Pronounced on
19.04.2021	23.04.2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP (MD) Nos. 3952, 4035 and 4440 of 2021

CRL OP (MD) No. 3952 of 2021:

1.K.Muthuraja
2.R.Ramalakshmi
v/s ... Petitioners /Accused 2 and 3

State represented by
The Inspector of Police,
City Crime Branch,
Madurai City,
Madurai.
(Crime No.11/2021)

... Respondent/Complainant

D.V.Dharmasingh
.. Petitioner/ Intervener
IN CRL MP (MD) No.2409 of 2021
IN CRL OP (MD) No.3952 of 2021

CRL OP (MD) No. 4035 of 2021:

M.Jothiramalingam
Vs ... Petitioner/Accused No.6, 7

State represented by
The Inspector of Police,
City Crime Branch,
ALGSC,
Madurai District.
(Crime No.11/2021)

... Respondent/Complainant

D.V.Dharmasingh
.. Petitioner/ Intervener
IN CRL MP (MD) No.2675 of 2021
IN CRL OP (MD) No.4035 of 2021



CRL OP (MD) No. 4440 of 2021:

1.M.Sivagnanam
2.M.Palanisundaram

... Petitioners/Accused Nos.4 and 5

Vs

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State represented by
The Inspector of Police,
City Crime Branch,
ALGSC,
Madurai District.
(Crime No.11/2021)

... Respondent/Complainant

For Petitioners

: Mrs.Porkodi Karnan, Advocate for
M/s.Polax Legal Solutions
in Crl.O.P.(MD)No.3952 of 2021

For Petitioners

: Mr.Rajakarthikeyan, Advocate
in Crl.O.P.(MD)Nos.4035 and 4440 of 2021

For Respondent

: Mr.KR.Bharathi Kannan
Government Advocate (Crl.Side)
in all the petitions

For Intervenor

: Mr.R.Lakshmanan, Advocate
IN CRL MP (MD) Nos.2409 & 2675 of 2021
IN CRL OP (MD) Nos.3952 & 4035 of 2021

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

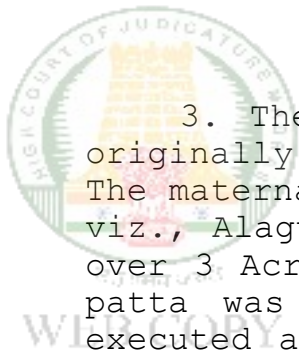
COMMON PRAYER :-

For Anticipatory Bail in Cr.No.11 of 2021 on the file of the respondent police.

COMMON ORDER : The Court made the following order :-

The petitioners in Crl.O.P.(MD)Nos.3952 of 2021/A.2 and A.3 apprehending arrest at the hands of the respondent police for the alleged offences punishable under sections 420, 448, 465, 468, 471, 120B and 506(i) I.P.C., in Cr.No.11 of 2021 on the file of the respondent police, seek anticipatory bail.

2. The petitioner in Crl.O.P.(MD)Nos.4035 of 2021/A.6, 7 and the petitioners in Crl.O.P.(MD)No.4440 of 2021 apprehending arrest at the hands of the respondent police for the alleged offences punishable under sections 120(b), 420, 448, 465, 468, 471 & 506(i) I.P.C., , in Cr.No.11 of 2021 on the file of the respondent police, seek anticipatory bail.



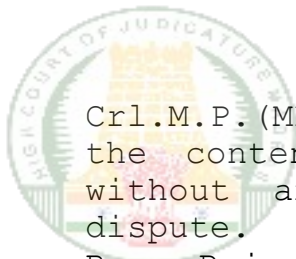
3. The case of the petitioners is that the disputed property originally belonged to one Sooravali Subbu Iyer Charitable Trust. The maternal uncle of the petitioners in Crl.O.P.(MD)No.3952 of 2021 viz., Alagu thevar was a cultivating tenant under them. On handing over 3 Acres and 50 cents, he was given 68 cents by the Trust and patta was also issued in his name. The said Alagu Thevar had executed a Will in favour of his daughter viz., Thenammal. After the death of Alagu Thevar, the property came to the hands of Thenammal and patta was also transferred in her name. She executed a registered deed of settlement in favour of the first petitioner/A.2 in Crl.O.P.(MD)No.3952 of 2021 on 25.09.2012. In turn the first petitioner/A.2 executed a settlement deed in favour of the second petitioner/A.3 on 28.12.2012. The petitioners have been in possession and enjoyment of the property, in Survey No.133/3 situated in Sathya Nagar, Sambakulam, K.Pudur, Madurai. However, the defacto complainant claimed that his mother is the owner of the property and tried to dispossess the petitioner, he gave a false complaint against the petitioners.

4. Another two anticipatory bail applications were filed by M.Jothiramalingam (Petitioner/A.6,7 in Crl.O.P.(MD)No.4035 of 2021) and M.Sivagnanam and M.Palanisundaram (Petitioners in Crl.O.P.(MD) No.4440 of 2021). They stated that Ramalakshmi/A3 executed a General Power of Attorney in favour of M.Sivagnanam/A4 to an extent of 52 cents. Also one Muthuraja had executed a General Power of Attorney in favour of M.Sivagnanam/A.4 to an extent of 15 3/4 cents. M.Sivagnanam/A4 filed a suit in O.S.No.600 of 2016 against the defacto complainant before the Principal Subordinate Court (Melur Camp), Madurai and obtained ad-interim injunction in I.A.No.298 of 2016 on 30.08.2016. The said suit was dismissed on 06.03.2020 for default. Due to the pandemic situation, the said suit has not been restored to file. In order to threaten the petitioners, the defacto complainant wantonly included their names and hence, the present petitions have been filed.

5. The petitioner in Crl.O.P.(MD)Nos.4035 of 2021 while reiterating the aforesaid facts, submitted that he is an Advocate and his name is wrongly included as Jothi, D/o S.Mariappan and Ramalingam, S/o S.Mariappan, instead of Jothiramalingam, S/o S.Mariappan. He is no way connected in this case. The defacto complainant is also an Advocate and due to professional rivalry, he has been falsely implicated in this case and hence, all the petitioners prayed for anticipatory bail.

6. The learned Government Advocate (Crl.Side) appearing for the State opposes these petitions on the ground that the petitioners claimed right as the owners of the property without valid documentary evidence.

7. The defacto complainant filed intervening petitions in Crl.O.P.(MD)Nos.3409 of 2021 in Crl.O.P.(MD)No.3952 of 2021 and

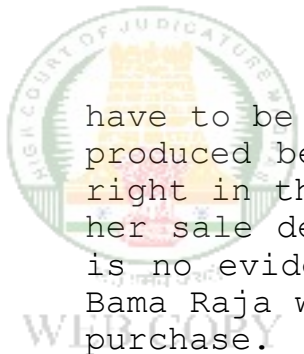


Crl.M.P.(MD)No.2675 of 2021 in Crl.O.P.(MD)No.4035 of 2021. It is the contention of the learned Counsel for the intervenor that without any legal basis, the petitioners raised the property dispute. On the other hand, the defacto complainant's mother viz., Bama Raja is the owner of the suit property. She purchased the property from the original owner on 24.01.1994. The accused Chandrasekar filed O.S.No.118 of 2010, on the file of the District Munsif Court, Madurai based on the false documents. The said suit was dismissed, against which, an appeal in A.S.No.6 of 2012 was preferred and the same was ended in dismissal. Against the same, he preferred a Second Appeal in S.A.(MD)No.839 of 2012 before this Court and that was also dismissed. The other accused, at the instigation of the said Chandrasekar, had come out with this second round of litigation. In support of his documents, he produced the copy of degree and judgment in O.S.No.118 of 2010 and S.A.(MD)No.839 of 2013 and also patta standing in the name of the defacto complainant's mother.

8. Heard the learned Counsel appearing for the petitioners, the learned Government Advocate (Crl.Side) appearing for the State and the learned Counsel appearing for the intervenor and perused the materials placed on record.

9. The perusal of the documents produced by both parties shows that there is no dispute with regard to the fact that originally the disputed property belonged to one Sooravali Subbu Iyer Charitable Trust. There is a patta issued in respect of Survey No.113/3 to an extent of 3.50 Acres, which shows that Alaguthevar is a cultivating tenant. Subsequently there is a document executed by the Manager of aforesaid Trust stating that Alaguthevar is a cultivating tenant and he was paying rent. The petitioners have also filed a document said to have been executed by the Manager of the Trust on 25.08.1971 stating that the said Alaguthevar surrendered the land to an extent of 3.50 Acres in Survey No.113/3, in which he was cultivating, to the Trust. Therefore, he was given 70 cents of land on the eastern side of Odai. That document was not registered. It is said in this document that Alaguthevar is entitled to mortgage or sell this 70 cents of land. Petitioners filed typed set of documents containing the copies of Will executed by Alaguthevar, settlement deed executed by Thenammal in favour of Muthuraja and the settlement deed executed in favour of Ramalakshmi by Muthuraja.

10. Perusal of the records shows that both parties claimed right to the property in dispute through documents. Alaguthevar has not been given right by way of sale deed, but only through unregistered document. In law, any transaction with regard to immovable property worth more than Rs.100/- has to be done only by registered document. Therefore, the claim of right under the basis of the document said to have been executed by the Manager of the Trust in favour of Alaguthevar and subsequent Will executed by him and the settlement deeds executed by the family and their validity



have to be considered in the light of oral and documentary evidences produced before the competent civil Court. Bama Raja is claiming right in the property in the same Survey Number. It was mentioned in her sale deed that she was a cultivating tenant of the land. There is no evidence produced on the side of the intervenor to show that Bama Raja was the cultivating tenant of the said property before her purchase. Whereas, petitioner filed documents to show that Alaguthevar was a registered cultivating tenant of the land to an extent of 3.5 Acres in Survey No.113/3 and in patta No.274. Thus, there emerges a conflict claim of right over the property through documents. These vexed issues can be decided only in the trial.

11. Considering the above facts and circumstances of the case, this Court is of the considered view that the claim and counter claim can be decided only in the trial and the title should be decided only by a competent Civil Court. This case rests on documentary evidence and therefore, the custodial interrogation of the petitioners is not necessary. Therefore this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

12. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.I/Judicial Magistrate (ALGSC) Special Court, Madurai, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each with two sureties, each for a like sum 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 and on further condition that:

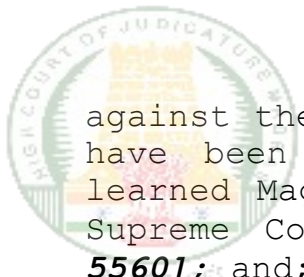
(a) the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the second petitioner in Crl.O.P.(MD)No.3952 of 2021 and the first petitioner in Crl.O.P.(MD)No.4440 of 2021 shall report before the respondent police as and when required for interrogation and the remaining petitioners shall report before the respondent police daily at 10.00 a.m., until further orders;

(c) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioners shall not abscond either during investigation or trial;

(e) on breach of any of the aforesaid conditions, the learned Magistrate 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/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]**; and;

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(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

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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 JUDICIAL MAGISTRATE NO.I/
JUDICIAL MAGISTRATE (ALGSC) SPECIAL COURT, MADURAI.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
3. THE INSPECTOR OF POLICE,
CITY CRIME BRANCH, MADURAI CITY, MADURAI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.POLEX LEGAL SOLUTIONS, Advocate (SR-3385[I] dated 26/04/2021)

ORDER IN

CRL OP (MD) Nos. 3952, 4035 and
4440 of 2021

Date : 23/04/2021

SSL

MS/PN/SAR-1/29.04.2021/6P.6C