



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

Reserved on	Pronounced on
15.06.2021	18.06.2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD) . No.7680 of 2021

Sivasankaran

... Petitioner/2nd Accused

Vs

State Rep. by
The Sub Inspector of Police,
District Crime Branch,
Anti Land Grabbing Special Cell,
Virudhunagar.
Crime No.11/2021.

... Respondent/Complainant

Pandipriya

... Petitioner/Intervener/
Defacto Complainant
in CRL MP(MD) No.3980 of 2021
in CRL OP(MD) No.7680 of 2021

For Petitioner : Mr.Radhakrishnan.S,
Advocate.

For Respondent : Mr.M.Muthumanikkam,
Government Advocate (Crl.Side)

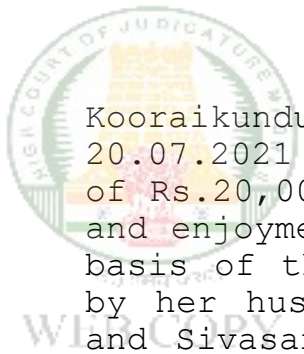
For Intervenor : Mr.R.Gandhi,
Advocate

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

ORDER : The Court made the following order :-

The petitioner/A.2, apprehending arrest at the hands of the respondent police for the alleged offences punishable under sections 120(B), 420, 467 and 468 I.P.C., in Crime No.11 of 2021 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant's father purchased 1acre 19 cents in Survey No.153/6 at



Kooraikundu Village, Virudhunagar Taluk through a sale deed dated 20.07.2021 from Rajeswari, W/o Ramalingam Pillai for a consideration of Rs.20,000/-. Ever since the purchase, he has been in possession and enjoyment of the property. Rajeswari sold this property on the basis of the general power of attorney deed executed in her favour by her husband Ramalingam and his brother Sivasankar. Ramalingam and Sivasankar got this property through their ancestors. With a view to cheat the defacto complainant's father, Ramalingam and Sivasankar had executed a power of attorney deed in favour of A.R.V.Jegadeesan on 28.09.2005 in respect of the property which was sold to the defacto complainant's father. On the basis of the said power deed, A.R.V.Jegadeesan sold this property to his wife Vasanthi on 13.03.2006. In fact 50 cents of land in Survey No.153/6B belongs to one Mahalakshmi. However, that property was sold to the defacto complainant's father stating that, that 50 cents belongs to Ramalingam Pillai and Sivasankar. The defacto complainant's father purchased 1acre 5cents of land in Kooraikundu Village from A.K.A.Selvarajan on 13.09.1991. In respect of this property also, Ramalingam and Sivasankar executed a general power deed in favour of A.R.V.Jegadeesan on 28.09.2005. On the basis of this power deed, A.R.V.Jegadeesan sold the property to his wife. The defacto complainant's father executed a Will in respect of his properties to the defacto complainant and her sister on 30.12.2009. Her father died on 06.03.2016. This cheating and forgery came to knowledge only when the defacto complainant obtained encumbrance certificate. Apart from these transactions, Ramalingam Pillai and Sivasankar had created forged documents and executed general power of attorney in favour of Jegadeesan in respect of 1 acre 4 cents in Survey No.153/5B, which belongs to Mahalakshmi. Jegadeesan had sold his property to his wife. Therefore, this case came to be registered.

3. The learned Counsel for the petitioner submitted that the petitioner is innocent and he has been falsely implicated in this case. In fact, one complaint was registered on the basis of the complaint given by one Mahalakshmi against the second accused in Cr.No.33 of 2007, on the file of District Crime Branch, Virudhunagar. After enquiry, it was found that there is a litigation pending in O.S.No.292 of 2002, on the file of the District Munsif Court, Virudhunagar in respect of the property in Survey Nos.153/5 and 165/1 between Jeyaraman and Mahalakshmi and another. Another suit is also pending in respect of Survey Nos.165/1, 153/6, 153/6B, 165/5, on the file of the Sub Court, Virudhunagar in O.S.No.32 of 2004. There is also a reference about the acquiring of the disputed property by Isakkiyapillai through whom, Ramalingam Pillai and Sivasankar claim. That FIR in Cr.No.33 of 2007 was closed as a mistake of fact. He also submitted that since the petitioner was repeatedly harassed by claiming right to the property, he gave statement before the respondent police and then gave a petition before the Home Secretary of Government of Tamil Nadu and the District Superintendent of Police, Virudhunagar. <https://hdservices.courts.gov.in/Aservices/> this case is now registered.



4. He further submitted that the defacto complainant's father purchased the lands, even as per the case of the defacto complainant, only 1.19 acres in Survey No.153/6 and 1.05 acres in Survey No.153/5 of Kooraikundu Village. These survey numbers contain large extent. Only a part of the property was sold. There is a dispute with regard to the identification of the property. Therefore, he submits that this case was registered only with a view to harass the petitioner and the learned Counsel seeks anticipatory bail to the petitioner/A.2.

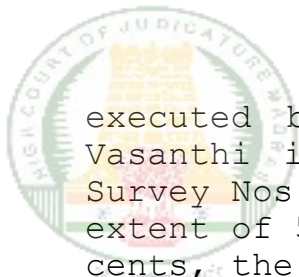
5. The learned Counsel for the intervenor opposes this petition on the ground that the property, which was sold to the father of the defacto complainant, was again said to have been sold by the accused with an object to cheat the defacto complainant's father. He produced documents in support of his case. The first document is a copy of the registered power of attorney deed, dated 22.06.2021 executed by A.1 and A.2 in favour of Rajeshwari. The second document is a copy of the registered sale deed executed in favour of the defacto complainant's father by A.1 and A.2. He also produced a copy of the registered sale deed executed in favour of the fourth accused by A.1 and A.2 through the third accused. Another document is a copy of the power of attorney deed executed by A.4 in favour of Rajeshwari. He submitted that these documents clearly show that the documents have been systematically executed to commit fraud on the defacto complainant. Therefore, he prayed for dismissal of the petition.

6. The learned Government Advocate (Crl.Side) appearing for the State opposes this petition on the ground that the investigation in this case is pending.

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

8. Perusal of the records, especially the documents filed in support of the case of the petitioner and the defacto complainant, show that the defacto complainant filed the sale deed in favour of her father only in respect of Survey No.153/6. The sale deed, dated 13.09.1991 alleged to have been executed by A.K.A.Selvarajan in favour of her father has not been produced. It is seen from copy of the registered power of attorney deed dated 22.06.2021 that the power deed was executed in respect of Survey No.153/6 along with other properties. Those properties are not subject matter in this case.

9. As already stated, the defacto complainant's father was sold 1.19 acres in Survey No.153/6 within a specified boundary. The copy of the registered power of attorney deed dated 22.06.2021 shows that this sale deed was



executed by the accused A.R.V.Jegadeesan in favour of his wife Vasanthi in respect of Survey Nos.152, 153/5 and 153/6, now the Survey Nos.153/5A, 5B, 5C. The Survey Nos.156/6A, 6B, 6C have total extent of 5 acres 19 cents. After selling western part of 1 acres 10 cents, the balance 3 acres was sold within a specific boundary. The boundaries in the sale deed in favour of the defacto complainant's father and boundaries in the sale deed in favour of Vasantha totally differ. As per the sale deed in favour of Vasantha, there was totally 5 acres 19 cents available in Survey Nos.156/6A, 6B, 6C. Obviously it appears that there is some issue with regard to the identification of the properties sold to the defacto complainant's father and subsequently said to have been sold to the fourth accused. This dispute can be resolved only after full pledged trial. The services of qualified Surveyor will be required to resolve the dispute between the parties. The issue has to be resolved only through the production of documents supported by oral evidence. The custodial interrogation of the petitioner is not necessary, in view of the fact that the case of rival parties has to be resolved only through the production of documents supported by oral evidence. In this view of the matter, this Court is of the considered view that the petitioner/may be granted anticipatory bail with certain conditions.

10.Accordingly, the petitioner/A.2 is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate No.II, Virudhunagar within a period of fifteen days from the date of receipt of a copy of this order, on his 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 said Magistrate and on further condition 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 shall report before the respondent police daily at 10.30 a.m., until further orders.

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

[d] the petitioner shall not abscond either during investigation or trial.

[e] 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



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

sd/-
18/06/2021

WEB COPY

/ TRUE COPY /

/ /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.

TO

- 1 THE JUDICIAL MAGISTRATE NO.II,
VIRUDHUNAGAR.
 - 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR AT SRIVILLIPUTHUR.
 - 3 THE SUB INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH,
ANTI LAND GRABBING SPECIAL CELL,
VIRUDHUNAGAR DISTRICT.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to M/s.S.RADHAKRISHNAN, Advocate (SR-4054[I] dated 21/06/2021)

ORDER
IN
CRL OP(MD) No.7680 of 2021
Date :18/06/2021

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JM/VR/SAR IV/23.06.2021/5P/6C