



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Friday, the First day of April Two Thousand Twenty Two

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PRESENT

The Hon`ble Mrs Justice T.V. THAMILSELVI
CRIMINAL MISCELLANEOUS PETITION No.1245 of 2022

IN

CRL OP.23865/2021

MADHAN KUMAR

[PETITIONER/DEFACTO COMPLAINANT]

Vs

1 A. HARIHARAN

2 B. PRIYADARSHINI

..RESPONDENTS NO.1 & 2/Petitioners

3 STATE REP BY

INSPECTOR OF POLICE,

VARIETY HALL ROAD,

COIMBATORE DISTRICT

(CRIME NO.472/2021)

..3rd Respondent/Complainant

Petition praying that in the circumstances stated therein the High Court will be pleased to Cancel the Anticipatory bail granted in Crl.OP.23865/2021 on 10.12.2021 to the Respondents 1 & 2 and allow this petition.

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S B.KUMARASAMY, Advocate for the petitioner and of M/S T.SAIKRISHNAN Advocate for (R1 & R2) and MR.L.BASKARAN, Govt. Advocate (Crl. Side) (R3) on behalf of the Respondents the court made the following order:-

The petitioner has filed this petition to cancel the anticipatory bail by stating that the petitioner has suppressed the real facts before this Court and obtained anticipatory bail in Crl.OP.No.23865 of 2021.

2.The learned counsel for the petitioner submits that while granting anticipatory bail to the first and second respondents, this Court considered the pendency of the Insolvency Petition No.7 of 2018 which is pending before the learned Additional Sub-Ordinate Judge, Pollachi in which this petitioner/defacto complainant is a party and considering the pendency of the insolvency petition, this Court is inclined to grant anticipatory bail. Now, the petitioner's counsel



submits that after filing the Insolvency Petition, the first petitioner sold the property to the third party with an intention to default claim of the creditors including the defacto complainant in the year 2019 through the sale deed dated 24.05.2019 and also another sale deed dated 04.10.2019. On perusal of three sale deeds as it is seen that the properties concerned in the sale deeds is shown as schedule of properties in the Insolvency Petition. When the Insolvency Petition is filed showing all these properties, it assumes the charge under the concerned Court where the case is pending and without obtaining any permission from the Court, the properties were sold subsequent to the filing of the Insolvency Petition. That apart, at the time of filing of anticipatory bail petition though the first and second respondents have mentioned about the pendency of the Insolvency petition, they have not disclosed about the alleged sale made in the year 2019. Pointing out those facts, the learned counsel for the petitioner argued that with the malafide intention to cheat the creditors, the first and second respondents have already filed the Insolvency Petition and thereafter they sold the properties which are shown as properties in the Insolvency Petition which would also prove their intention to default the claim. Hence, he prays to cancel the anticipatory bail granted to the first and second respondents herein.

3.The learned counsel for the first and second respondents submits that after filing of the Insolvency petition at the compulsion of some of the creditors, the first respondent was forced to execute sale deed. Besides, it is also civil in nature, for that, the petitioner has to work out his remedy before the Civil Court and that could not be a ground to cancel the anticipatory bail, he argued.

4. Though the submission made by the first and second respondents may be acceptable, on seeing the facts that in the year 2018, the first respondent filed Insolvency Petition in IP.No.7 of 2018, the petition copy also enclosed and on perusal of the same reveals that the three items were shown as properties in the Insolvency Petition, but, subsequently, the properties were sold in the year of 2019. The sale deeds annexed in the typed set of papers prove those facts. At the time of filing of the anticipatory bail, the first respondent had not disclosed this fact before this Court and only considering the pendency of Insolvency Petition, this Court had granted anticipatory bail, but, now the facts reveals that after filing of the Insolvency Petition without obtaining permission of the Court, the first respondent sold the property for valuable consideration. Apart from that, it was not put forth before this Court. The conduct of the first respondent shows that he has not approached this Court with clean hands.



5. Considering the conduct of the first respondent, anticipatory bail granted to him is cancelled. Accordingly, petition is allowed in respect of the first petitioner alone. Since the second respondent being the wife of the first petitioner, she is not a party to the Insolvency petition, earlier order granting anticipatory bail is maintainable against R2.

-sd/-

01/04/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE
NO.V, COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE DISTRICT(FOR INFORMATION)

3 INSPECTOR OF POLICE,
VARIETY HALL ROAD,
COIMBATORE DISTRICT

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

C.C. to M/S B.KUMARASAMY Advocate on payment of necessary charges Sr.5028

C.C. to M/S T.SAIKRISHNAN Advocate on payment of necessary charges Sr.5043

Order
in
CRL MP.1245/2022
in
CRL OP.23865/2021

Date :01/04/2022

From 7.2.2001 the Registry is issuing certified copies of the BAIL/Anti.BAIL Orders in this format

RVR 19/04/2022