



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2022

CORAM:

THE HON'BLE MR.JUSTICE DR.G.JAYACHANDRAN

Cr1.O.P.No.5085 of 2022

1.Velmurugan
2.Elamathi

.. Petitioners

Vs.

State rep. by
The Inspector of Police,
Kullanchavadi Police Station,
Cuddalore District.
(Crime No.129 of 2022)

.. Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to enlarge the petitioners on bail pending investigation in Crime No.129 of 2022 on the file of the respondent police.

For Petitioners : Mr.K.Vijayakumar

For Respondent : M/s.G.V.Kasthuri
Additional Public Prosecutor

For Intervenor : Mr.S.Venkatesh

O R D E R

The petitioners/A2 and A4, who were arrested for the offences punishable under Sections 294(b), 506(ii), 406, 420 of IPC in Crime No.129 of 2022, on the file of the respondent police, seek bail.

2.Heard the learned counsel for the petitioners, learned Additional Public Prosecutor for the respondent and the intervenor.

3.Based on the complaint given by the defacto complainant, these petitioners were arrested on 30.01.2022. As per the F.I.R., these petitioners along with the other two accused persons have made the defacto complainant to believe that they will sell their property worth about Rs.66 lakhs and received the money by cash and thereafter, they have created a document by way of a settlement to the minor children and appointing one among them as a guardian.

4.Perusal of the alleged agreement for sale dated 10.03.2021 and the subsequent receipts would go to show that it is a case of civil



nature where the defacto complainant has to work out his remedy before the Civil Court and there is violation of criminal intimidation when the alleged sale deed has been executed. However, the defacto complainant counsel who is before this court as intervenor would submit that since the property was already sold to one Annalakshmi before the execution of the agreement for sale, the intention to deceive the defacto complainant at the inception itself is palpably seen. This court is unable to accept this submission for the two reasons. If the property already been sold to one Annalakshmi four years ago prior to the alleged agreement for sale, no prudent purchaser would have advanced Rs.66 lakhs in cash without verifying the Encumbrance Certificate. If really, a honest purchaser, who wants to purchase a property of high value, he would have paid the consideration through bank transaction or would have registered the document immediately after parting away Rs.66 lakhs in cash. Here, the defacto complainant has done neither of this. Therefore, it is always open to him to prove the alleged transaction before a competent civil court and for the purpose of investigation, even if there is any criminal intention on the part of the accused, detaining them in prison may not be required.

5. In view of the above fact, bail is granted to these petitioners and they are ordered to be released on bail subject to the following conditions;

(a) The petitioners shall execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh Only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Kurinchipadi.

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the petitioners are directed to appear before the Investigating Officer as and when required.

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

(e) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court 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];



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

-sd/-

04/03/2022

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,
KURINCHIPADI

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE (FOR INFORMATION)

3 INSPECTOR OF POLICE,
KULLANCHAVADI POLICE STATION,
CUDDALORE DISTRICT

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE

6 THE SUPERINTENDENT,
WOMEN PRISON, CENTRAL JAIL,
CUDDALORE

CC to M/S K.VIJAYAKUMAR Advocate on payment of necessary
charges Sr.3326

CRL OP.5085/2022

Date :04/03/2022

RVR 04/03/2022