



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :05.04.2022

Pronounced on :11.04.2022

CORAM:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.O.P.No.6876 of 2022

AND CRL.MP.NO.4112 of 2022

1.O.V.Krishnan
2.Renukambal
3.Saraswathy
4.Vijayakumari
5.B.Lakshmi Kantham
6.J.Manoharan
7.P.Krishna Kumar

.. Petitioners

/versus/

State Rep.by its
The Inspector of Police,
District Crime Branch,
Anti Land Grabbing Special Cell,
Chengalpattu District.
(Crime No.8 of 2022)

.. Respondent

V.ELANGO

[PETITIONER/DEFACTO COMPLAINANT]
[ORDERED AS PER ORDER OF THIS COURT
DATED:05/04/2022 MADE IN CRL.MP.NO.4112/2022
IN CRL.OP.NO.6876/2022]

Criminal Original Petition has been filed under Section 438 of Cr.P.C., praying to enlarge the petitioners on bail in the event of arrest in connection with Crime No.8 of 2022 on the file of the respondent police, pending investigation.

For Petitioners :Mr.T.Ayyasamy

For Intervenor :Mr.Sunder Mohan for
Mr.S.Kathiravan



For Respondent: Mr. S. Santhosh,
Govt. Advocate (crl.side)

ORDER

WEB COPY

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 120(B), 420, 465, 467, 468, 471, 506(II), 507 of IPC in Crime No.8 of 2022, seek anticipatory bail.

2. This Court, on hearing the learned counsel for the petitioners, learned Government Advocate (Crl.Side) appearing for the respondent and the learned counsel appearing for the defacto complainant, who has filed a petition to intervene and on perusal of the records, passes the following order.

3. The case of the defacto complainant is that, the property in dispute measuring about 12.07 acres in Koovathur Village was bequeathed to one Mangammal through an unregistered Will dated 14/01/1990 by one Venkatavaradha Reddy. Mr.V.Krishnan @ O.V.Krishnan and his siblings are witnesses to the Will. After the demise of Venkatavarada Reddy on 24/04/1991, the property vested with the defendant (Mangammal) and she is in possession of the property paying kist. Revenue records are mutated in her favour and in the enquiry conducted by the Deputy Thasildar for mutation of records, all the sons and daughters of the Late Venkatavarada Reddy participated and consented for transfer the name in favour of Mangammal, the defendant.

4. While so, the accused persons had fabricated the documents as if the said Venkatavarada Reddy died intestate and after his demise, his sons and daughters have released their right in favour of O.V.Krishnan and the released deed dated 09/12/2003 got registered in the Sub Registrar Officer, Cheyyur as document No.2049/2003. This release deed was in respect of 18 items of property. Out of which, 13 properties were already alienated to the third parties and 5 properties are the properties bequeathed to Mangammal(defendant) by Venkatavarathdha Reddy in his Will and the property is in possession of the said Mangammal. Later, the accused persons executed a rectification deed dated 23/05/2012 and got it registered deleting the 13 items of properties, which were already alienated to third parties. After fabricating documents and creating fake title, the said O.V.Krishnan has instituted a suit in O.S.No.151/2013 before the District Munsif Court, Mathurantham for declaration of title in his favour, alleging that the Will of Venkatavarathda Reddy dated 14/01/1990 is a forged document and Mangammal has no right or title over the property. The said suit is still pending and the reason for the delay is discussed in the later part of this order.

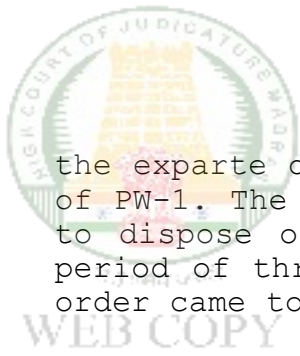


5.While the suit is pending, based on the complaint given by the power agent of the said Mangammal, FIR was registered on 15/03/2022 for the offences under Sections 120(B), 420, 465, 467, 468, 471, 506 (II), 507 of IPC in Crime No.8 of 2022 by the respondent police. Apprehending arrest, the petitioners are before this Court seeking bail in the event of arrest.

6.Now, going back to the civil suit pending between the parties, O.V.Krishnan has filed suit for declaration and injunction. Alleging the said Mangammal has misused the blank papers given to her for setting the casurina. Pending suit in O.S.No.151 of 2013, it is alleged that on 05.09.2013, the defendant (Mangammal) and her Agents trespassed into the land and forcibly took possession. Hence, the plaintiff sought for an amendment in the prayer for the relief of handing over the possession of the suit property. The said I.A.No.1252 of 2013 was allowed by the trial Court. Against which, the defendant (Mangammal) filed C.R.P.(NPD) No.1464 of 2014 under Article 227 of the Constitution of India and the same was dismissed by this Court in C.R.P(NPD) No.1464 of 2014, dated 05.12.2014. This has occurred, while interlocutory application for interim injunction was pending and the trial Court had granted injunction on 11.03.2013 restraining the defendant (Mangammal) not to create any encumbrance over the suit property.

7.Thereafter, the suit was taken up for trial. The plaintiff was examined in chief on 08.10.2015. The defendant (Mangammal) failed to cross examine, despite several adjournments granted from 02.11.2015 to 25.01.2016. Hence, she was set exparte and the matter was adjourned for examination of further PWs. Then the defendant (Mangammal) filed an application to set aside the exparte order. The said application was allowed. However, she did not cross examine the witnesses inspite of repeated adjournments from 18.03.2016 to 14.07.2016. When PW-1 was present on 14.07.2016 for cross examination, the defendant (Mangammal) remained absent. Therefore, the trial Court set her exparte and exparte decree was passed on 20.07.2016.

8.The defendant (Mangammal) filed an application under Order 9 Rule 13 of C.P.C. to set side the exparte decree dated 20.07.2016. The trial Court, considering the conduct of the defendant(Mangammal), has not entertained that application and the same was dismissed. Against this dismissal order, the defendant (Mangammal) preferred C.M.A.No.11 of 2016 on the file of the Subordinate Court, Madurantakam. The said Court, after recording the sequence of events and the conduct of the defendant(Mangammal) and the reasons stated for her absence, allowed the Miscellaneous Appeal by setting aside



the exparte decree and directed her to complete the cross examination of PW-1. The appellate Court also gave a direction to the trial Court to dispose of the suit, as early as possible, preferably within a period of three months, from the date of receipt of that order. This order came to be passed on 05.07.2017.

9.The defendant (Mangammal), instead of participating in the trial and co-operate for examination of witnesses had filed transfer petition in Tr.O.P.No.33 of 2017 before the District Court, Chengalpattu making allegations against the Presiding Officer. The District Court, to avoid further controversies and taking note of the fact that the defendant (Mangammal), has entertained doubt about the integrity of the Presiding Officer, quoting justice not only be done but also seen to be done allowed the Transfer Original Petition and transferred the case from the District Munsif Court, Madurantakam to the District Munsif Court, Chengalpattu, vide order dated 07.09.2017. Accordingly, the suit was transferred to Chengalpattu Court and the same was taken on file and re-numbered as O.S.No.305 of 2017.

10.Even before the Chengalpattu Court, the defendant (Mangammal) not interested to participate in the trial. Instead of participating in the trial, she made grave allegation against the Presiding Officer, who insisted the defendant (Mangammal) to conduct the trial since it was time bound and refused to give adjournment, she filed Transfer C.M.P.No.530 of 2018 before this Court and sought for transfer of the Court from the District Munsif Court, Chengalpet, to any other competent Court at Chennai. This Court vide order dated 28.01.2019 transferred the suit to the Additional District Munsif Court, Alandur and directed the said Court to dispose of the suit, within a period of four months from the date of receipt of that order.

11.The defendant (Mangammal), not being satisfied with that that, had come to this Court by way of filing the transfer petition alleging that the Presiding Officer/Additional District Munsif, Alandur had demanded a ransom and therefore, the matter may be withdrawn and transferred to the Court of District Munsif, Tambaram.

12.Taking note of the serious allegation made against the Presiding Officer, this Court transferred the matter for the third time from the Additional District Munsif Court, Alandur to the District Munsif Court, Tambaram with a direction to the parties to appear before the District Munsif Court, Tambaram on 03.01.2020 and proceed with the trial. This order came to be passed in Tr.C.M.P.No.892 of 2019 in C.M.P.No.24465 of 2019.



13.Now, the defendant (Mangammal) had filed an application to reject the plaint and stike off the pleadings and also sought direction to the concerned Court not to proceed with the trial and also she had made several allegations against the Presiding Officer and addressed letters to the Chief Justice of Madras and other Judges. The trial Court dismissed I.A.No. 19 of 2020 in O.S.No.7 of 2020 filed for rejection of plaint under Order VII, Rule 11(d) of the C.P.C. Against which, the defendant (Mangammal) preferred Revision in C.R.P.No.2134 of 2021 and the same was dismissed on 04.02.2022. This time, this Court granted six months time to dispose of the matter.

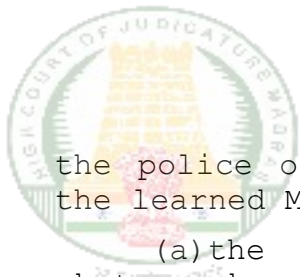
14.Having tried all the tricks and tactics to delay the suit in which the plaintiff has made a specific allegation against Mangammal and others that they have misused the blank signed papers of Venkatavaradha Reddy and has manipulated the records. Forged the Will and the revenue records, now the present complaint has been made.

15.The conduct of the defendant (Mangammal) for not participating in the suit to prove her title over the property and genuineness of the Will had taken all pains to delay the process and in the said attempt, the defendant had spared nobody including the Presiding Officers and having failed in all her attempts and had lodged this complaint through her Power Agent.

16.The conduct of the defacto complainant as narrated above and to recapitulate, first, she allowed the suit to go exparte. Then, got exparte decree set aside. Thereafter, periodically filed petitions for transfer and got the suit transferred from Maduranthakam to Chengalpattu and from Chengalpattu to Alandur. From Alandur to Tambaram then filed petition to reject the plaint and strick the pleadings having failed in all her attempts to delay the suit where she is expected to prove the Will through which she denies title, at last the complaint is lodged.

17.This Court finds that the complaint is a motivated one to avoid facing the trial in the civil suit. Hence, this Court is inclined to grant anticipatory bail to the petitioners.

18.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of seven days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Chengalpattu, on condition that each of 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



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 Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioners shall report before the Investigation Officer as and when required for interrogation.

(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/ 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]*; and;

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

-sd/-

11/04/2022

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.II, CHENGALPATTU.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU [FOR INFORMATION]



3 THE INSPECTOR OF POLICE
DISTRICT CRIME BRANCH,
ANTI LAND GABBING SPECIAL CELL,
CHENGALPATTU DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S T.AYYASAMY Advocate on payment of necessary charges
SR.No.5508

+1CC to M/S S.KATHIRAVAN Advocate on payment of necessary
charges SR.No.5590

CRL OP.6876/2022
AND
CRL.MP.4112/2022
Date :11/04/2022

CSK 19/04/2022