



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 27.04.2022

Pronounced on : 29.04.2022

WEB COPY

Coram::

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Criminal Original Petition No.9126 of 2022

and CRL.MP.NO.5775/2022

A.Babu Vinifread

... Petitioner/Accused

/versus/

State Rep. by

The Inspector of Police, (Team-1), EDF-I,

Central Crime Branch - II,

Vepery, Chennai.

Crime No.10 of 2022

... Respondent/Complainant

P.GNANASEKARAN

..PETITIONER/DEFACTO COMPLAINANT ORDERED
AS PER ORDER OF THIS COURT DATED 27/04/2022
MADE IN CRL.MP.NO.5775/2022

Prayer:- This Criminal Original Petition is filed under Section 438 of Cr.P.C., pleaded to enlarge the petitioner on bail in the event of his arrest in Crime No.10 of 2022 on the file of the Inspector of Police, Team-1, EDF-1, Central Crime Branch-II, Vepery, Chennai.

For Petitioner : Mr.A.Ramesh, Senior Counsel, for
Mr.S.Joel.

For Intervenor : Mr.R.John Sathyan

For Respondent : Mr.S.Santhosh,
Government Advocate (Crl.Side)

O R D E R

The petitioner herein, who apprehending arrest for the alleged offence under Section 417 & 420 of I.P.C., in Crime No.10 of 2022, on the file of respondent police, seeks anticipatory bail.

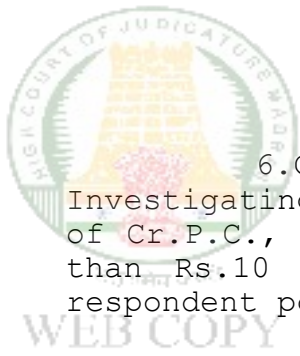
2. On the complaint by one Gnansekaran a proprietor of M/s.Vishnu Builders engaged in construction trade. A case in Crime No.10/2022 is registered against this petitioner for offences under section 417 and 420 of I.P.C.



3. The gist of the complaint is that, one Mrs.Vathsala Sivakumar owner of the property bearing Plot Nos.119 and 120, 1st Main Road, Sri Krishna Nagar, Maduravoyal, Chennai, ad-measuring 7200 sq.ft (3600x2 sq.ft each) gave him a power of attorney and same was registered vide document Nos.3439/2018 & 3440/2018 at Virugambakkam, Sub Registrar Office, on 14/06/2018. Mr.A.Babu Vinifread, who came to know about this offer to buy this property, he expressed his intention to construct residential flats suitable for lease and rent. Accordingly, as wished by Mr.A.Babu Vinifread, sub-division of the property and planning permit for constructing 18 apartments was obtained by Gnanasekaran as Power of Attorney of the owner Mrs.Vathsala Sivakumar and executed sale deed in favour of Mr.A.Babu Vinifread under two sale deeds registered as documents Nos.7741 of 2018 and 7742 of 2018 at Sub Registrar Office, Virugambakkam, on 21/12/2018. The sale consideration as agreed was settled to the owners of the land.

4. On trust without any written agreement, Gnanasekaran commenced construction and completed the work by February-2020. Pending completion, rental agreement was entered with M/s.Zolostays Property and the premises was furnished with Air Conditioner Inverter at the cost paid by Mr.A.Babu Vinifread. When, Mr.A.Babu Vinifread was in need of finance, Gnanasekaran organised finance through his known source and gave Rs.3 crores to Mr.A.Babu Vinifread. After that, Mr.A.Babu Vinifread gone out of reach. Towards construction cost and cash received as loan, A.Babu Vinifread has to pay Gnanasekaran more than Rs.10 crores, but exhibiting his photographs with the Chief Minister, he is threatening with dire consequence.

5. In the petition, the said Mr.A.Babu Vinifread has stated that, he has purchased the property of Mrs.Vathsala Sivakumar through her power agent Gnanasekaran. He paid the entire sale consideration of Rs.2,52,34,588/- between 24/05/2018 and 12/06/2018 in four instalments and got the sale deeds. As per the petitioner and the defacto complainant had agreed orally the construction cost at the rate of Rs.1600/- per sq.ft. Towards the cost, the petitioner has paid to Gnanasekaran (defacto complainant) a sum of Rs.4,54,59,181/- between 27/08/2018 and 14/05/2018. When the petitioner was in need of finance, the defacto complainant lend Rs.1.50 crores, during the month of February 2020. So far, he has repaid Rs.51 lakhs and only Rs.99 lakhs to be paid. While so, the defacto complainant started claiming huge amount towards the construction cost and forced the petitioner to execute power to deal with the property. Since, the petitioner refused the complaint with false averment made to the Chief Minister cell.



6. Contending that, the petitioner has appeared before the Investigating Officer, on receipt of the summons under Section 41-A of Cr.P.C., and being a man of credit worthy with assets valued more than Rs.10 crores, he seeks bail in the event of arrest by the respondent police.

7. The defacto complainant intervening the petition submitted that, the petitioner is working at Brunei Country and he did not properly cooperating with the investigation, when summoned by the Investigating Officer. Meanwhile, he is already entered into lease agreement with third party. If not arrested, he may alienate or create further encumbrance over the property and fled.

8. Considering the nature of the averments made in the complaint and in the intervening petition, this Court is of the view finds that, it is admitted by the petitioner that, the defacto complainant had constructed 21,000 sq.ft building and orally the cost of construction was agreed at the rate of Rs.1600/- per sq.ft. He also admits that, he borrowed Rs.1.5 crores from the defacto complainant and paid only Rs.51 lakhs so far. Out of Rs.4,54,59,181/- paid by him, Rs.2,04,19,181/- paid to the defacto complainant before the registration of the property in his name. The defacto complainant states that, this money was paid to him towards the cost of the land, which he advanced to the owner Mrs.Vathsala Sivakumar. There is prima facie force in this submission that, the petitioner herein had committed breach of trust and trying to cheat. If this petitioner is granted anticipatory bail, he may not available for enquiry and trial. Therefore, the plea of pre-arrest bail is dismissed. Hence, this Criminal Original Petition is dismissed.

-sd/-

29/04/2022

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.I, POONAMALLEE

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR (FOR INFORMATION)



3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
(TEAM-1), EDF-1,
CENTRAL CRIME BRANCH-II,
VEPERY, CHENNAI.

CC to M/S.S.JOEL Advocate on payment of necessary charges
Sr.6651

CC to M/S.R.JOHN SATHYAN Advocate on payment of necessary charges
Sr.6606

CRL OP.9126/2022

and CRL.MP.NO.5775/2022

Date :29/04/2022

RVR 02/05/2022