



Crl.O.P.No.13924 of 2022

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G.K.ILANTHIRAIYAN, J.

Heard the learned counsel for the petitioner, the learned Additional Public Prosecutor for the respondent police and the learned counsel for the Intervenor.

2. The petitioner/A2 who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 120(b), 409, 418, 420, 465 and 506(ii) of IPC in Crime No.8 of 2021 on the file of the respondent police, seeks anticipatory bail.

3. The case of the prosecution is that the defacto complainant owned property measuring an extent of 0.851/4 cents comprised in Survey Nos.384/1A, 384/3A1, 384/3A2, 385/1A, 385/1B, 385/1C, 384/1B situated at Padur Village, Thiru Porur, Chengalpattu District. The defacto complainant to deal with the said property executed a power of attorney in favour of the first accused vide Registered Document No.9909



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of 2017 dated 25.09.2017 on the strength of the power of attorney, the first accused executed a sale deed in favour of the petitioner/A2 vide sale deed dated 08.02.2018, registered as Document No.1424 of 2018 for a total sale consideration of Rs.1,54,00,000/- (Rupees One Crore and Fifty four lakhs only). However,A1 after receipt of the entire sale consideration, failed to pay any sale consideration in favour of the defacto complainant. The first accused issued two cheques for the total sale consideration and both the cheques were returned dishonoured for the reasons “insufficient funds” That apart, on the strength of the sale deed, the petitioner/A2 executed agreement of sale infavour of one Mohan. On the said agreement for sale and sale deed, the accused persons also threatened the defacto complainant and also assaulted him to vacate the premises. Hence, the complaint.

4. The learned counsel for the petitioner/A2 submitted that the petitioner/A2 is a bonafide purchaser. He purchased the subject property for the total sale consideration of Rs.1,50,00,000/- and the entire sale consideration duly paid to the first accused. Infact, on the strength of the



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sale deed, the second petitioner/accused is in possession and enjoyment of the said property. While being so, the defacto complainant has disturbed the peaceful possession and enjoyment of the said property. The petitioner/A2 filed a suit before the Vacation Court/Principal District Court, Chengalpet in O.S.No280 of 2020, for permanent injunction as against the defacto complainant. Now, the said suit was transferred to the regular court and re-numbered as O.S.No.96 of 2022 on the file of the District Munsif Court, Chengalpet and it is pending for trial. Therefore, the petitioner/A2 is an innocent purchaser and he has nothing to do with the case as alleged by the defacto complainant.

5. The defacto complainant filed an intervening petition and submitted that the defacto complainant owned property and inherited the said property by registered partition deed, dated 25.09.2017. Further, the family friend one Vinayakam who is the friend of the first accused approached the defacto complainant and undertake to sell the property at the best market level and also requested the defacto complainant to pay a sum of Rs.15,00,000/- as commission. The defacto complainant agreed



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for the same and executed the power of attorney in favour of the first accused on 25.09.2017. Thereafter, without the knowledge of the defacto complainant, A1 execute the sale deed in favour of the petitioner/A2 for the total sale consideration of Rs.3 crores. When the defacto complainant approached the first accused, the first accused gave written undertaking and also issued two cheques for a sum of Rs.2,87,00,000/- , both the cheques were deposited for collection and returned dishonoured for the reasons “ insufficient funds”. Infact, the possession of the said property never had been taken over and the defacto complainant and her family members are in possession and enjoyment of the suit property.

6. Immediately, after the sale deed, the petitioner/A2 has executed an agreement for sale with one Mohan to sell the subject property on the strength of the agreement for sale, the accused persons threatened and assaulted the defacto complainant and his family members and compelled them to vacate the premises. On coming to know that the sale deed and agreement for sale, the defacto complainant lodged a complaint and the same has been registered in Cr.No.788 of 2021 on the



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file of the Inspector of Police, Kelambakkam Police Station. Even before that the defacto complainant lodged the present complaint and the same has been registered in Cr.No.8/21 on the file of the District Crime Branch, Chengalpattu as against the petitioner/A2 and another for the offences punishable under Sections 120B, 409, 418, 420, 465 and 506(2). In fact, the defacto complainant immediately lodged a complaint and unfortunately the said complaint was not taken on the file by the Inspector of Police, Kelambakkam Police Station. Therefore, the defacto complainant was constrained to file a private complaint and the same was forwarded under Section 156(3) of Cr.P.C. On the said direction, the respondent registered an FIR in Cr.No.8 of 2021. Even then, the accused persons along with agreement holder and allegedly trespassed into the defacto complainant's property and tried to grab the property. Therefore, the defacto complainant lodged a complaint and the same was registered in Cr.No.788 of 2021 as against the accused persons.



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7. That apart, the defacto complainant also filed a suit in O.S.No34 of 2022 on the file of the Principal District Court, Chengalpattu, against the petitioner/A2 and others for declaration for declaring that the sale deed executed in favour of the petitioner/A2 and the agreement executed by the petitioner/A2 in favour of the said Mohan as null and void and also for permanent injunction since the defacto complainant and her family members are very well in possession and enjoyment of the subject property. Though the learned counsel for the petitioner produced the statement of accounts showing that some of the cheques issued in favour of the first accused were acquired and the first accused encashed those cheques on the sale of the subject property. Immediately after purchase of the subject property on 08.02.2018, the petitioner/A2 entered into the agreement for sale on 22.06.2018 itself. He entered into the agreement for sale for a total consideration of Rs.1,55,00,000/- (Rupees One crore and fifty five lakhs only).



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8. It is also seen that in the bail petition filed by the first accused, it is clearly stated that the subject land was sold out in favour of the petitioner herein for the total sale consideration of Rs.1 crore 50 lakhs and only a sum of Rs.35,00,000/- paid to the defacto complainant and Rs.15,00,000/- received as commission by the first accused. In the second bail petition, the first accused stated that the first accused received only a sum of Rs.50,00,000/- as sale consideration and the remaining Rs.1 Crore to be received from the petitioner /A2 by selling the property to others namely the said Mohan. Therefore, it is very clear that the first and the second accused colluded with each other and only with an intention to cheat the defacto complainant created a sale deed and on the strength of the sale deed, the petitioner/A2 also entered into an agreement for sale with the said Mohan.

9. That apart, the petitioner/A2 purchased the subject property on 18.02.2018. The petitioner never had possession of the subject property, even till today, the defacto complaint and her family members are in possession and enjoyment of the subject property. A1 was already



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arrested and remanded to judicial custody. Subsequently, he was released on bail in Crl.MP.No.1988 of 2022 by an order dated 19.02.2022 on condition that on release of the first accused, he was directed to settle the dispute and the payment of sale consideration to the defacto complainant within a period of three months failing which, the defacto complainant is at liberty to approach the learned Judicial Magistrate concerned for cancellation of bail. Therefore, the petitioner/A2 along with the first accused had committed serious offences and tried to grab the property of the petitioner without paying any sale consideration.

10. Considering the facts and circumstances of the case and the submissions made by both counsel, this Court is of the view that the custodial interrogation of the petitioner is very much required in this case. Hence, this Court is not inclined to grant anticipatory bail to the petitioner/A2 herein.



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11. Accordingly, this Criminal Original Petition is dismissed.

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Vv

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