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Crl.O.P.No.19610 of 2022

Reserved on : 30.08.2022

Date of Verdict : 02.09.2022

Crl.O.P.No.19610 of 2022

G.K.ILANTHIRAIYAN, J.

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 420, 465, 467, 468 and 471 of IPC in Crime No.515 of 2019, seeks anticipatory bail.

2. The case of the prosecution is that during the year 1964, one Alamelu Ammal entered into a partnership deed with V.Balasubramanian, M.Natesan, M.Periyannan and M.Subbaiah in the name and style of Alamelu Industries and registered with Registrar of Firms, Chennai. On 28.09.1983, 05.10.1983, 21.10.1983 and 25.10.1983, the partnership firm purchased land measuring 3.98 acres comprised in survey Nos.96/AS, 47/3 and 47/4 situated at Velapanchavadi and Puliampedu halmet, Numbal Village, formerly Saidapet Taluk, Chingalepet District, now Poonamallee Taluk, Thiruvallur District, registered vide documents Nos.5343, 5489, 5486 and 5911 of 1983. During the year 1975, the defacto complainant was born and he claims that the said Alamelu ammal and her husband had no



issues and hence they had taken care of the defacto complainant as their biological son. On 26.04.1986, her husband passed away and thereafter, the defacto complainant had taken care of the said Alamelu ammal.

3. While being so, on 19.02.1997, the said Alamelu ammal executed a registered Will bequeathing some of her properties in favour of the defacto complainant in which, she categorically mentioned that she was partner of the Alamelu Industries and Chennai Saradha & Company. Again on 21.06.2004, she executed another Will bequeathing her right and interest in respect of Alamelu Industries in favour of the petitioner viz., M.Subbaiah and her right and interest in Saradha & Company in favour of one M.Natesan. In the said Will also, she bequeathed certain properties in favour of the defacto complainant. Finally on 29.01.2010, she executed her last registered Will and bequeathed all her shares held in different companies in favour of the defacto complainant. After her demise, her last Will came into force.

4. The defacto complainant filed petition to probate the Will dated 29.01.2010, in O.P.No.715 of 2013 before this Court. Similarly, the



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petitioner also filed petition in O.P.No.377 of 2012 seeking to probate of her earlier Will dated 21.06.2004. While being so, on 15.03.2014, the petitioner along with other accused persons made an attempt to criminally trespass into the property. Therefore, the defacto complainant lodged complaint and he was issued C.S.R.No.116 of 2014 on the file of the Inspector of Police, Thiruverkadu Police Station and thereafter on 02.04.2014 the same was registered in Crime No.423 of 2014.

5. The petitioner also filed a suit in O.S.No.131 of 2014 on the file of the District Munsif Court, Poonamalle for permanent injunction as against the third persons. In the said suit, the defacto complainant himself impleaded as party and by the judgment and decree dated 18.06.2018, the said suit was dismissed. The defacto complainant also approached the revenue authorities to include his names as well as other partners name in the patta in respect of the subject property and the same was also allowed. While being so, on 26.03.2014, in order to grab the entire property, the petitioner executed Deed of Settlement registered vide document No.9838 of 2014, in favour of his wife S.Andal and settled the entire extend of the property ad measuring 3.79 acres without any title. In turn, immediately on



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28.08.2014, she executed another Settlement Deed registered vide document No.13662 of 2014 in favour of her son. On the strength of the settlement deed dated 28.08.2014, he applied for patta. However, the revenue officer passed order dated 18.05.2015, thereby restoring the patta in favour of the firm.

6. The defacto complainant obtained information under the Right to Information Act and shocked to note that on 31.12.1993 itself, Alamelu ammal had retired from the firm and business. He also found that the signature of the said Alamelu ammal was forged in the Deed of Dissolution. Thereafter it was used as genuine one and filed before the Thasildar, Madhuravoyal. The same was attested by two witnesses. The defacto complainant also filed private complaint and the same is pending on the file of the District Musif cum Judicial Magistrate, Sriperambudut in C.C.No.176 of 2015 in respect of the false Settlement Deed dated 23.06.2014. Thereafter, the defacto complainant came to the knowledge about the Dissolution Deed dated 31.12.1993 and therefore, he lodged the present complaint before the respondent.



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7. The learned Senior Counsel appearing for the respondent submitted that in respect of the subject property there are several proceedings pending between the petitioner and the defacto complainant. The defacto complainant conveniently suppressed some of the proceedings and lodged the false complaint with the false allegations. The defacto complainant is none other than the close relative of the petitioner. The petitioner filed suit in O.S.No.131 of 2014, as against the defacto complainant and it is pending on the file of the Principal District Munsif Court, Poonamallee. He also filed Original Petition to probate the Will executed by the said Alamelu ammal in O.P.NO.377 of 2012 and the same is pending before this Court.

7.1. He further submitted that the defacto complainant already lodged private complaint before the learned Judicial Magistrate, Sriperumbudur and it is culminated in C.C.No.176 of 2015 for the very same set of allegations. In the year 2015, he filed application under Section 91 of Cr.P.C., to direct the accused persons to produce the original documents dated 04.11.1992 and 13.12.1993 and the same was dismissed by the trial Court. He also filed another petition under Section 45 of the



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Indian Evidence Act, sought the relief to send the documents which are alleged to be forged one to handwriting expert opinion and the same was also dismissed by the trial Court. Aggrieved by the same, the defacto complainant filed Criminal Revision Petition and Criminal Original Petition and they are pending in Crl.R.C.No.1625 of 2016 and Crl.O.P.No.26565 of 2016 before this Court. Therefore, the defacto complainant what he cannot achieve through the civil Court, now he is trying to achieve through the criminal proceedings. Therefore, the custodial interrogation of the petitioner does not require in this case. More over, the petitioner is aged about 77 years and hence he prayed to grant anticipatory bail to the petitioner.

8. The learned counsel appearing for the defacto complainant vehemently contended that the Government of Tamil Nadu by G.O.Ms.No.1002 dated 30.09.1996, notified that the alternation of name of Madras as “Chennai” with effect from 30.09.1996. After filing of suit in O.S.No.131 of 2014, the petitioner had fabricated the alleged Deed of Dissolution dated 31.12.1993 and claimed the subject property in view of the forged Deed of Dissolution, as if the firm M/s.Alamelu Industries got



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dissolved and he became the sole proprietor of the firm. The information obtained by the defacto complainant under the Right to Information Act revealed that the non-judicial stamp papers for the Deed of Dissolution dated 31.12.1993 had been purchased in the name of one Babu and it has been misused in the name of M/s.Alamelu Industries by using the old stamp papers. It refers the place as “Chennai” whereas the name of “Madras” has been changed as Chennai only by way of gazette notification dated 30.09.1996. Hence he vehemently opposed to grant anticipatory bail to the petitioner.

9. The learned Additional Public Prosecutor appearing for the respondent police submitted that in view of the stay order granted by this Court in the quash petition in Crl.O.P.No.34424 of 2019, filed by the petitioner, the investigation was stalled. Now the said petition has been dismissed by this Court by an order dated 11.08.2022, and the investigation is under progress. Hence, he opposed to grant anticipatory bail to the petitioner.



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10. Heard Mr.A.Ramesh, learned counsel appearing for the petitioner, Mr.ADamodaran, learned Additional Public Prosecution appearing for the respondent and Mr.P.Krishnan, learned counsel appearing for the Intervenor.

11. On perusal of the complaint as well as the intervene petition filed by the defacto complainant revealed that it is not disputed that the said Alamelu ammal purchased the subject properties by way of four registered sale deeds in the name of the partnership firm. She executed her last Will dated 29.01.2010 bequeathing all her properties including her shares in the firm in favour of the defacto complainant. Thereafter she died on 10.06.2011 and on her last Will, the defacto complainant filed petition to probate the same and it is pending in O.P.No.715 of 2013. The petitioner also filed petition to probate the Will dated 21.06.2004 in O.P.No.377 of 2012 before this Court, later it was converted as T.O.S.NO.44 of 2013.

12. The petitioner claimed the subject property in view of the Deed of Dissolution, as if the firm M/s.Alamelu Industries got dissolved and he became the sole proprietor of the firm. However, the said deed was not



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referred in any where in the suit filed by the petitioner in O.S.No.131 of 2014 on 24.03.2014. In fact, he did not disclose about the subject property stood in the name of M/s.Alamelu Industries in his probate petition in O.P.No.377 of 2012, later it was converted as T.O.S.No.44 of 2013 on the file of this Court.

13. That apart, the stamp papers which is used for Dissolution Deed dated 31.12.1993 was sold by the stamp vendor one M.Kailash Chand on 21.10.1993 in Sl.Nos.48325-334 in denomination 5 X 10; Sl.Nos.48325-399 in denomination 100 X 5; Sl.Nos.48340 in denomination 5 X 1 in favour of Babu. Whereas it is seen from the Deed of Dissolution, the stamp paper in Sl.No.48336 was purchased in the name of M/s.Alamelu Industries. Therefore, it was fabricated just before the execution of settlement deed.

14. It is also seen that after registration of FIR, the petitioner filed quash petition before this Court in Crl.O.P.No.34424 of 2019 to quash the present FIR registered in Crime No.515 of 2019 on the file of the respondent and the same was dismissed by this Court by an order dated



11.08.2022. While admitting the said quash petition, this Court granted interim stay and thereafter the main quash petition itself dismissed.

Therefore, the petitioner apprehends arrest in Crime No.515 of 2019. While dismissing the quash petition, this Court observed about the private complaint filed by the defacto complainant in C.C.No.176 of 2015 on the file of the Judicial Magistrate, Sriperumbudur, as follows :-

“22. The facts of the case in hand reveals the private complaint pending on the file of Judicial Magistrate in C.C.No.176 of 2015 is based on the superficial probe by the individual aggrieved by the effect of the alleged forgery and fabrication of false documents. In other words, the private complaint is about alleged land grabbing through the settlement deeds executed by the petitioner in favour of his wife and in turn his wife settling the property in favour of her son during the within span of two months in the year 2014. Whereas, the impugned FIR is for an incised probe by the police regarding the fabrication and forgery of the dissolution deeds of the year 1993, in view of the new facts which has been come to the knowledge of the complainant received through RTI after the private complaint was taken on file. The complaint is to probe the cause namely, the dissolution deeds which alleged to have been executed by the partners of Alamelu Industries vesting the property



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absolutely with the petitioner herein. Therefore, the facts are to be probed and it does not prima facie appears to be on the same set of facts or an abuse of process of law or lodged to harass the petitioner.”

15. The main ground raised by the petitioner in the quash petition is that already private complaint filed for the very same set of allegations and the same is pending in C.C.No.176 of 2015 as such the present FIR cannot be sustained as against the petitioner, since it is also revealed for the very same set of allegations. For which this Court held that the present FIR does not prima facie appears to be on the same set of facts or an abuse of process of law or lodged to harass the petitioner.

16. Considering the above facts and circumstance, the custodial interrogation of the petitioner is very much required in this case to unearth the truth. Hence, this Court is not inclined to grant anticipatory bail to the petitioner. Accordingly, the Criminal Original Petition stands dismissed.

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