



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Fifth day of February Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL ORIGINAL PETITION No.23673 of 2021

and CrI.M.P.No.13840 of 2021

1 S.DHANASEKHAREN

[PETITIONERS / ACCUSED]

2 D.SASIREKHA

Vs

THE INSPECTOR OF POLICE,

[RESPONDENT]

CCB-II, CHENNAI (TEAM-25)

NO. 132, COMMISSIONER OFFICE BUILDING,

EVK SAMPATH ROAD, VEPERY,

CHENNAI 600 007.

CRIME NO. 117 OF 2021

For Petitioner : M/S. B.ARVIND SREVATSA Advocate

For Respondent : M/S.S.SANTHOSH, Govt. Advocate (CrI. Side)

For Intervener : M/S.V.RAGHAVACHARI, Advocate

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offence under Sections 420, 465, 467, 468, 471 and 506(1) of IPC, in Crime No.117 of 2021, on the file of the respondent police, seek anticipatory bail.

2. The defacto complainant has filed an intervening petition in CrI.M.P.No.13840 of 2021.

3. The case of the prosecution is that the defacto complainant has lodged a complaint with the respondent police on 08.04.2021 stating that the petitioners herein and other accused have created



false and forged documents and are attempting to grab the subject property. Hence, the respondent police registered a case against the petitioners.

4. The learned counsel appearing for the petitioners submits that the petitioners have not committed any offence as alleged by the prosecution and they have been falsely implicated in this case. He would further submit that in respect to the allegation levelled against the petitioners and others, already a civil suit is pending before the appropriate forum. Further, the present complaint has been lodged by the defacto complainant after two years from the date of purchase made by the petitioners. Since the evidence, which are all necessary for completing the investigation, is in the form of written documents, custodial interrogation of the petitioners are not necessary. He also submitted that the petitioners are ready and willing to abide by any condition that may be imposed on them by this Court. Accordingly, he pleaded for granting anticipatory bail to the petitioners.

5. The learned counsel appearing for the intervener/defacto complainant would submit that on 08.04.2021, the defacto complainant lodged a complaint before the Commissioner of Police, wherein he raised allegation as Survey No.413 in Patta No.529 measuring an extent of 2.77 acres originally belonged to one N.T.Radhakrishnan, who sold the aforementioned property situated in Kunrathur Village to one Selvam vide a sale deed dated 01.06.1965. In turn the said Selvam settled the property in favour of his daughter viz., Pavithra vide Settlement Deed dated 10.06.2014 and later, the defacto complainant/intervener purchased the said property. In otherwise, the petition mentioned property, do not belong to one N.T.Radhakrishnan and his son N.R.Ramakoti, as alleged by the petitioners. According to him, the story projected by the petitioners, is entirely false and therefore, if these type of petitioners are released on bail, they may try to tamper the witness and hamper the investigation. Hence, he prayed for dismissal of this petition.

6. The learned Government Advocate (Criminal Side) appearing for the respondent police, by filing counter raised objections stating that in the alleged occurrence, many of persons are involved and the preliminary investigation reveals the fact that the petitioners 1 and 2 herein had created forged and fabricated documents in order to grab the subject property. Accordingly, he opposed for grant of anticipatory bail to the petitioners.

7. Considered the submissions made by the learned counsel appearing for the petitioners, the learned counsel appearing for the intervener/defacto complainant and the learned Government Advocate (Crl.Side) appearing on behalf of the respondent police.



8. Here it is a case, the respondent police has registered a case as against the petitioners for the offence punishable under Sections 420, 465, 467, 468, 471 and 506(1) of IPC. As per the preliminary investigation, the petitioners have created false and fabricated documents in order to grab the property.

9. According to the prosecution, the original owner of the subject property viz., Thiru.N.T.Radhakrishnan had died in the year 2015 and his son Thiru.N.R.Ramakotti was given the subject property. The said Thiru.Ramakotti had allegedly settled the same property in favour of his wife one Tmt.Chinthamani vide settlement deed dated 11.03.2005 registered as Document No.2010/2005 in the Sub Registrar Office, Kundrathur. On 21.03.2005 the said Chinthamani had appointed Thiru.S.Madhavan as her Power Agent to deal with the said subject property. Thiru.Madhavan had sold the said property to Thiru.Govindaraj in sale deed dated 30.03.2005 and registered as Document No.2673/2005 in the office of the Sub Registrar, Kundrathur. The said Govindaraj had created several documents including multiple Power of Attorneys, cancellation Deeds and Registration Deeds.

10. On 24.01.2013 the said Govindaraj has nominated Thiru.Dhanasekarn and Tmt.Sesirekha as his Power Agents and registered the same as Doc.No.968/2013 and 960/2013 for an extent of 1.26 acres and 1.24 acres respectively, on the file of S.R.O. Kunrathur. The petitioners/accused has sold the above land in favour of Thiru.K.Sambanda Chettiar (father of Accused A1. Thiru Dhanasekaran). The sale took place on 01.09.2015 - vide sale deed registered as Doc.Nos.14124, 14125 and 1426/2015 in file of the S.R.O., Kundrathur for the land of 2.51 acres out of 2.77 acres. Thiru Sambanda Chettiar, father of accused A1 Thiru Dhanasekaran had settled the property back in favour of Thiru.Dhanasekaran vide settlement deed dated 21.05.2018 and registered as Doc.No.6398/2018. The accused does not hold a very good name in the society and he is arm twisting innocent people by creating forged and fabricated documents for his own and personal unlawful gain. The accused has not come to the Court with clean hands.

11. Though, it was stated on the side of the prosecution as above, in respect of the title, the vendor of the defacto complainant viz., Pavithra had filed a suit in O.S.No.513 of 2015 on the file of the learned District Munsif-cum-Judicial Magistrate, Sriperumbudur, challenging the settlement deed dated 11.03.2005 and the general Power of Attorney dated 21.03.2005. Further, the father of the 1st petitioner/A1-S.Dhanasekaran viz., Sambanda Chettiar has also filed a suit in O.S.No.65 of 2017 on the file of the learned District Munsif-cum-Judicial Magistrate, Sriperumbudur, through his power of attorney agents i.e., petitioners 1 and 2 herein. Only after filing the said suits, the present complaint has been preferred before the Commissioner of Police and as a result of which the petition mentioned case has been registered.



12. Therefore, the entire sequences narrated by the petitioners and the defacto complainant would reveal the fact that there is a dispute in respect to the title claimed by using the forged documents and the same is pending before the Civil Court and as such, the question of tampering the evidence may not arise. Accordingly, being the reason that the allegation levelled by the defacto complainant is civil in nature and further that custodial interrogation of these petitioners may not be necessary in this case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

13. Therefore, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate-I, Kanchipuram, on condition that each of the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only), 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 respondent police daily at 10.00 a.m., until further orders.

(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 themselves 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.



14. The intervening petition filed by the defacto complainant in Crl.M.P.No.13840 of 2021, is dismissed.

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-sd/-

25/02/2022

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, KANCHIPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU. [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
CCB-II, CHENNAI (TEAM-25)
NO. 132, COMMISSIONER OFFICE BUILDING,
EVK SAMPATH ROAD, VEPERY,
CHENNAI 600 007.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+2 CC to M/S. B.ARVIND SREVATSA Advocate on payment of
necessary charges SR.NO. 2937

+1 CC to M/S.V.RAGHAVACHARI Advocate on payment of necessary
charges SR.NO. 2925

CRL OP.23673/2021

&

CRL MP.13840

Date :25/02/2022

RW 01/03/2022