



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Reserved on : 27/04/2022
Delivered on : 18/05/2022
PRESENT

WEB COPY

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). Nos.6197, 6805 and 7348 of 2022

CRL OP(MD). No.6197 of 2022 :

Sathishkumar : Petitioner/A5

Vs.

State through
The Inspector of Police,
Anti Land Grabbing Special Cell,
DCB, Ramanathapuram.
Crime No.7 of 2022.

: Respondent/Complainant

Mohamed Ameen ... Petitioner/Intervener/Defacto Complainant
in Crl MP(MD) 4562 of 2022
in Crl OP(MD) 6197 of 2022

CRL OP(MD). No.6805 of 2022 :

1.Kumaresan
2.Munesswaran

: Petitioners/A3 & A4

Vs

State rep.by
The Inspector of Police,
District Crime Branch,
Ramanathapuram District.
Crime No.7/2022

: Respondent/Complainant

Mohamed Ameen ... Petitioner/Intervener/Defacto Complainant
in Crl MP(MD) 5054 of 2022
in Crl OP(MD) 6805 of 2022

CRL OP(MD). No.7348 of 2022 :

1.Mohamed Ismayil
2.Sathaiah

: Petitioners/A1 & A2

Vs

State rep.by
The Inspector of Police,
District Crime Branch,
Ramanathapuram District.
Crime No.7/2022

: Respondent/Complainant



(in Crl.OP (MD)No.6197/2022)
For Petitioner : Mrs.M.Rajeswari,
Advocate.

(in Crl.OP (MD)No.6805/2022)
For Petitioners : Mr.N.Ananda Kumar,
Advocate.

(in Crl.OP (MD)No.7348/2022)
For Petitioners : Mr.Ragatheesh Kumar, K.
for M/s.Issac Chambers.

(in all petitions)
For Respondent : Mr.M.Muthumanikkam,
Government Advocate (Crl.Side)

(in Crl.OP (MD)Nos.6197 & 6805/2022)
For Intervenor : Mr.A.Ravichandramani,
Advocate.

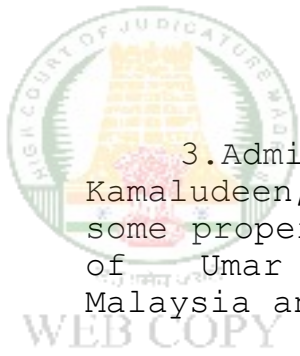
COMMON PRAYER :-

For Anticipatory Bail in Crime No.7 of 2022 on the file of the respondent Police.

ORDER : The Court made the following common order :-

The petitioners/Accused, who apprehend arrest at the hands of the respondent police for the offence punishable under Sections 465, 468, 471, 420 IPC r/w 120(B) IPC, in Crime No.7 of 2022, seek anticipatory bail.

2.The case of the prosecution is that the property to an extent of 2.97 acres in S.No.100/1 in Enmanamkondan Village, Uchippuli Post, Ramanathapuram Village, originally belonged to paternal grand father of the complainant, that the paternal grand father Umar Katha had three sons, namely, Ahamed Kamaludeen, Abdul Wahab and Abdul samadh, that the said Ahamed Kamaludeen and Abdul Wahab had died long back at Malaysia, leaving behind their legal heirs, that the accused Nos.1 and 2 with the help of Sub-Registrar of Velipattinam had fraudulently fabricated the power of attorney deed in their favour as if the legal heirs of Ahamed Kamaludeen and Abdul Wahab have executed general power deed in their favour, that A1 and A2 have falsely fabricated the life certificate dated 21.06.2021 for their principals, that on the basis of the fabricated power deed and life certificate, they sold the above said land in favour of accused Nos.3 and 4 on 25.06.2021, that the life certificate dated 21.06.2021 is a fraudulent one and the same was allegedly issued at Malaysia during the complete lock down due to Covid-19 first wave, that one of the legal heir of Ahamed Kamaludeen Sabaruyah died on 23.11.2019, but they have produced a life certificate as if she was alive on 21.06.2021 and that all the accused have created fabricated documents and thereby cheated the complainant.



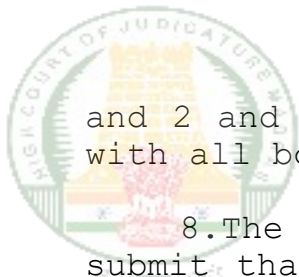
3. Admittedly, One Umar Katha had three sons, namely, Ahamed Kamaludeen, Abdul Wahab and Abdul Samadh, that Umar Katha was owning some properties including the property in dispute and that two sons of Umar Katha, Ahamed Kamaludeen and Abdul Wahab had settled in Malaysia and later passed away.

4. It is not in dispute that Ahamed Kamaludeen had died leaving behind five legal heirs, namely, (i) Abdul Wahab; (ii) Kadhira Bava; (iii) Safaria; (iv) Hirunnisa; (v) Ramsiaya; that Abdul Wahab had also died at Malaysia leaving behind five legal heirs, namely, (i) Mohamad Ibrahim; (ii) Ahamad Sidique; (iii) Abdul Aziz; (iv) Fathima Binti; (v) Khamrunnisha and that the third son of Umar Katha, Abdul Samadh had died in India leaving behind five sons, namely, (i) Ahamed Siddhik; (ii) Mohamed Rafik; (iii) Sakubeer Sadhiqu; (iv) Sayed Noor; (v) Mohamed Ameen.

5. The petitioners case is that the first petitioner/A1 is none other than half blood son of Late. Ahamed Kamaludeen, who married his mother and later they got divorce, that all the ten legal heirs of Ahamed Kamaludeen and Abdul Wahab are residing in Malaysia, that totally 15 legal heirs are having rights over their ancestral property, including the property in dispute, that the defacto complainant is just one among the 15 legal heirs and that since the legal heirs of Ahamed Kamaludeen and Abdul Wahab are settled in Malaysia, the defacto complainant wanted to grab the properties belonging to Ahamed Kamaludeen and Abdul Wahab with the help of other siblings.

6. It is the further case of the petitioners that initially Ahamed Kamaludeen executed a power of attorney in favour of the first petitioner/A1 on 29.12.2004 and under his instructions, the first petitioner/A1 has sold out some properties, that after the demise of Ahamed Kamaludeen in the year 2008 his legal heirs executed a power of attorney in favour of the first petitioner/A1 on 26.08.2009, that the first petitioner with the help of said power alienated few other properties and has maintained the other properties, that with the consent of the parties concerned the petitioners 1 and 2/A1 and A2 executed a sale deed dated 25.06.2021 in favour of the accused 3 to 5 in respect of the properties in S.No.100/1 and 100/3, that the said sale deed was executed in respect of the properties assigned to the legal heirs who gave power to the accused Nos.1 and 2 alone and that the share of the defacto complainant and his siblings are still available.

7. It is their further case that the Sub-Registrar, Velipattinam, after perusing all the relevant documents, registered the sale deed dated 25.06.2021, that the accused Nos.1 and 2 received the life certificate of Safaria through the whataspp number of legal heirs of Ahamed Kamaludeen, that the factum with the death of Safaria is not known to the accused Nos.1

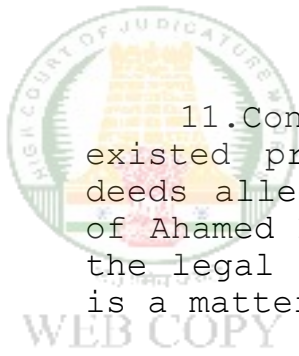


and 2 and that the accused 1 and 2 have executed the said document with all bonafideness as per the power executed to them.

8.The learned counsel for the petitioners/A1 and A2 would submit that even assuming that the documents registered in respect of land belongs to the share of the defacto complainant, it is for him to approach the competent Civil Court, that the complainant has attempted to change the civil dispute in to a criminal dispute, that the defacto complainant and his siblings with intention to grab the properties of Ahamed Kamaludeen and Abdul wahab had changed the patta in their favour in the year 2007, that the first petitioner/A1 as power agent, has filed a petition in W.P(MD)No.12339 of 2009, challenging the mutation of patta and that this Court has allowed the writ petition, vide order dated 03.01.2019 with a direction to the Revenue officials to mutate the names of 15 legal heirs in patta, that the defacto complainant's another brother Jahubar Sathik filed an appeal before the Deputy Inspector General of Registration, Madurai, challenging the order of District Registrar, Ramanathapuram, dismissing the complaints against the first accused, that a detailed enquiry was conducted and finally informed the complainant to seek remedy before the competent civil Court, that the accused Nos.3 and 5 are only the purchasers from the Accused Nos.1 and 2, that the petitioners are innocents and that they have been falsely implicated in the above case.

9.The learned counsel appearing for the petitioners/A1 and A2 would further submit that they are not aware of the death of Safaria in the year 2019, that since the power deed was executed in the year 2009, the said power is not cancelled till date and only on the basis of the said power, the accused Nos. 1 and 2 executed the sale deed.

10. As rightly contended by the learned counsel for the petitioners/A1 and A2, the defacto complainant has specifically admitted that properties in dispute were originally owned by the paternal grant father Umar Katha. Though the defacto complainant has taken a stand that since Ahamad Kamaludeen and Abdul Wahab were settled at Malaysia, all the properties of Umar Katha were given to Abudal Wahab and he was in enjoyment of the property and after his demise his legal heirs including the defacto complainant are in possession and enjoyment of the properties, the complainant has not produced any materials or evidence to show that all the properties of Umar Katha were given to his father Abdul Samadh and that he was owning and enjoying the properties including the property in dispute. Though the complainant has alleged that the accused Nos.1 and 2 had created power deed as if the legal heirs of the deceased Ahamad Kamaludeen and Abdul Wahab had executed power deed in their favour, they have not specifically disputed the power deed executed by the Ahamad Kamaludeen in favour of first petitioner in 2014 and subsequently by his legal heirs in the year 2019, as alleged by the



11.Considering the above, it is clearly evident that there existed property dispute between the parties. Whether the power deeds alleged by the first accused was executed by the legal heirs of Ahamed Kamaludeen or power deed was created and fabricated as if the legal heirs of Ahamad Kamaludeen and Abdul wabab have executed, is a matter to be investigated further.

12.Considering the above facts and circumstances and also the fact that there existed property dispute between the parties and also taking note of the age of the accused Nos.1 and 2 and also the fact that the accused Nos.3 and 5 are only the purchasers from the accused Nos.1 and 2 and that the petitioners are not having any bad antecedents as stated by the learned Additional Public Prosecutor, this Court is inclined to grant anticipatory bail to the petitioners, with certain conditions.

13.Accordingly, 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 Special Court for Land Grabbing Cases, Ramanathapuram, on condition that the petitioners shall execute a bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** each with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

[a]the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity.

[b]the petitioners shall report before the respondent police daily at 10.30 a.m., for a period of one month and thereafter, as and when required for interrogation.

[c]the petitioners shall not tamper with the 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]**.

[f]If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

18/05/2022

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1 THE JUDICIAL MAGISTRATE,
SPECIAL COURT FOR LAND GRABBING CASES,
RAMANATHAPURAM.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM.
- 3 THE INSPECTOR OF POLICE
ANTI LAND GRABBING SPECIAL CELL, DCB,
RAMANATHAPURAM
- 4 THE INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, RAMANATHAPURAM.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.M.RAJESWARI, Advocate (SR-4722[I] dated 18/05/2022)

+3 CC to M/s.R.SENTHIL KUMAR, Advocate (SR-4793[I] dated 19/05/2022)

+1 CC to M/s.N.ANANDAKUMAR, Advocate (SR-4774[I] dated 19/05/2022)

+2 CC to M/s.ISAAC CHAMBERS, Advocate (SR-4694[I] dated 18/05/2022)

ORDER

IN

CRL OP(MD). Nos.6197, 6805
and 7348 of 2022

Date :18/05/2022

SS/JM/SAR:II/19.05.2022 : 6P/13C