



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 12/07/2022

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PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD) . Nos.15759 and 15942 of 2021

1.Valli
2.Dhanam

... Petitioner/Accused No.3 & 4
in Crl.OP(MD) .15759/2021

Arumugasamy

... Petitioner/Accused No.2
in Crl.OP(MD) .15942/2021

Vs

State Rep.by
The Inspector of Police,
District Crime Branch Police Station,
(Anti-land Grabbing Special Cell),
Trichy District, Trichy.
Cr.No.18/2021

... Respondent/Complainant
in both petitions

IN BOTH PETITIONS

For Petitioners : Mr.S.Sankar, Advocate.
For Respondent : Mr.P.Kottai Chamy
Government Advocate (Crl.side)

PETITIONS FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

COMMON PRAYER :-

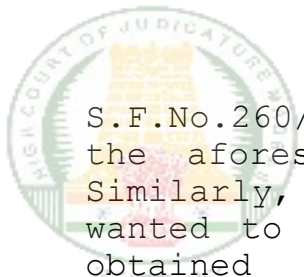
For Anticipatory Bails in Crime No.18/2021 on the file of the respondent police

COMMON ORDER : The Court made the following order :-

The petitioners apprehending arrest at the hands of the respondent police for the offences punishable under Sections 420, 423, 465, 468 and 471 r/w 34 IPC in Crime No.18 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution in brief is as follows:-

3.The defacto complainant is running a catering Mess called Velavan in Trichy. He purchased the property from his aunt, by name Vasantha and Dhanalakshmi regarding the plot numbers 21 and 40 in



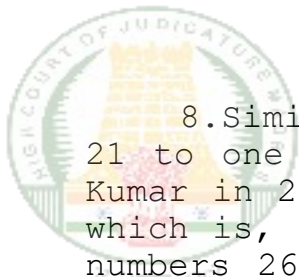
S.F.No.260/7 situated at Valavanthankottai Village. They purchased the aforesaid property from Pushpammal, Meerabhai and Lakshmi. Similarly, the other persons also purchased the other plots. He wanted to sell the property, which was purchased by him. So, he obtained an encumbrance certificate. On going through the encumbrance certificate he came to know that the property that was purchased by him was again sold by the accused persons. Having known that the aforesaid sale deeds are forged documents, it was witnessed by Packiyaraj and Muthukaruppan. So, based upon the aforesaid complaint, the case has been registered in Crime No.18 of 2021 for the offences punishable under Sections 420, 423, 465, 468 and 471 r/w 34 IPC. Seeking anticipatory bail, these petitions have been filed.

4.Both the applications are heard together and a common order is passed. The entire CD file has been called for and perused.

5.The case of the defacto complainant is that the property, which was purchased by him, was again sold by his vendors. So, they committed the offence of cheating, forgery and creation of false records. Among the accused, A5 and A6, namely Chitravel and Rajangam were arrested and remanded to judicial custody and later, they have been released on bail.

6.The learned counsel for the petitioners would submit that in 1979, among the 5 vendors, in which Subramanian, Suyamprakasam, Arumugasamy, Sathavu and Rajagopal, Suyamprakasam and Arumugasamy were the parties to the 1979 sale deed. Suppressing the aforesaid sale made in 1979, they joined hands with the other accused persons and sold the property in favour of one Rajangam, who is the 6th accused. So, the learned counsel for the petitioners would submit that the petitioners in Crl.O.P.(MD) No.15759 of 2021/A3 and A4 were not the parties to the aforesaid 1979 document. Similarly, the petitioner in Crl.O.P.(MD) No.15942 of 2021/A2 is also not a party to the 1979 document. So, they did not know about the earlier sale and so, the subsequent sale that was executed by them is not an act of criminality with criminal intention. For that purpose, the learned counsel for the petitioners would heavily rely upon the 1979 sale deed.

7.Perusal of document shows that two sons of Arumugan Moopan, namely Subramanian and Sathavu and two sons of Subramanian, namely Suyamprakasam and Arumugasamy and Rajagopal, S/o.Sathavu, executed a sale deed in favour of one Pushpammal in respect of plot numbers 23 and 24. Similarly, in favour of Padmini and Meerabhai, plot numbers 42 and 22 were sold respectively. Subsequently, in 1980, the aforesaid 5 persons sold plot number 36 in favour of one Jeyaguru, which was, in turn, sold to one Susila through power deed in 2010. This is the documents, which were executed.

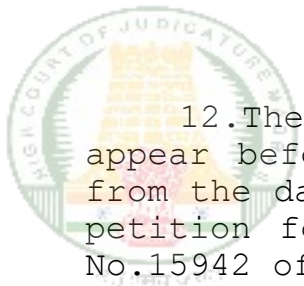


8. Similarly, in 1980, the aforesaid 5 persons sold plot number 21 to one Vasanthammal, who, in turn, sold the same to one Mahesh Kumar in 2010. Plot number 40 was sold to one Dhanalakshmi in 1979, which is, in turn, sold to the aforesaid Mahesh Kumar in 2011. Plot numbers 26 to 29 were sold to Rahmad in 1980. After going through several hands, those were sold to different persons and finally plot number 28 was purchased by Lakshmi and plot numbers 27 and 29 is in the hands of one Mohammed Yakuvu. Plot numbers 38 and 25 were sold to one Vijaya Raghavan in 1980. After that, plot number 25 was purchased by Saraswathy in 2011 and plot number 38 is also in the hands of power holder, namely Subramanian. So, this is the entire history of the plots.

9. Now, the disputed plot numbers, as mentioned by the defacto complainant, are 21 and 40. In respect of other plot numbers, namely 36, 38, 28, 25 and 35, the defacto complainant is not concerned. A3, namely Valli is the daughter of Subramanian, who is not the party to 1979 document. Suyamprakasham and Arumugasamy were also the parties to the 1979 document. But, Valli is not a party to the 1979 documents and Dhanam is also not a party to the 1979 documents. Similarly, Chithravelu is not a party. So, the present petitioner namely, Arumugasamy, as I mentioned earlier, was already a party in the 1979 document. How he sold the aforesaid plot subsequently is not explained by him. So, Arumugasamy, the petitioner in Crl.O.P. (MD) No.15942 of 2021 is not entitled for the discretionary relief of anticipatory bail, but insofar as the petitioners in Crl.O.P. (MD) No.15759 of 2022/A3 and A4, namely Valli and Dhanam, are concerned, they are not a party to the 1979 document. According to the learned counsel for the petitioners without knowing the earlier document, A3 and A4 entered into the sale transaction. So, naturally they are entitled for the discretionary relief of anticipatory bail.

10. In view of the foregoing discussions, this Court is inclined to grant anticipatory bail to the petitioners in Crl.O.P. (MD) No.15759 of 2021 alone.

11. Accordingly, Crl.O.P. (MD) No.15759 of 2021 is allowed and the petitioners in Crl.O.P. (MD) No.15759 of 2021 are ordered to be released on bail in the event of arrest or on their appearance, before the Additional Mahila Court, Trichy I/C of Anti-Land Grabbing Special Court, Trichy, on condition that the petitioners in Crl.O.P. (MD) No.15759 of 2021 shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and the petitioners in Crl.O.P. (MD) No.15759 of 2021 shall appear before the respondent police daily at 10.30 a.m. until further orders. The petitioners in Crl.O.P. (MD) No.15759 of 2021 shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously.



12.The petitioners in Crl.O.P.(MD) No.15759 of 2021 appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail shall stand dismissed. Crl.O.P.(MD) No.15942 of 2021 is dismissed.

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

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 JUDGE, ADDITIONAL MAHILA COURT, TRICHY.
I/C OF ANTI-LAND GRABBING SPECIAL COURT, TRICHY.
- 2 THE INSPECTOR OF POLICE, DISTRICT CRIME BRANCH POLICE STATION
(ANTI LAND GRABBING SPECIAL CELL), TRICHY DISTRICT, TRICHY.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN

CRL OP(MD)Nos.15759 and 15942 of 2021
Date :12/07/2022

RS/VR/SAR.3 (14.07.2022) 4P-4C