



Crl.O.P.No.1795 of 2023

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A.D.JAGADISH CHANDIRA, J.

The petitioner, who apprehends arrest at the hands of the respondent Police for the offence punishable under Sections 468, 471, 420 & 120(B) of IPC, in Crime No.1 of 2023, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner along with other accused has conspired together and cheated the *de facto* complainant by creating a fake sale deed and by impersonating the *de facto* complainant. Hence the case.

3. When the matter was taken up for hearing on 09.02.2023, this Court had granted interim anticipatory bail to the petitioner with certain conditions. Further, when the anticipatory bail application was pending, it is reported by the respondent Police that they had filed the final report. In respect of which, this Court finding something fishy in the hasty manner of completion of investigation and filing of final report, has passed the following order on 22.11.2023.



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"2. Though the present petitions are filed seeking anticipatory bail, considering the nature and gravity of offence involved in the present case, this court felt it appropriate to go a little bit deep into the facts of the case. Such peculiar facts are as under:-

i) The defacto complainant is the owner of the property of an extent of 20.92 cents of vacant land comprised in survey Nos.889/3 and 889/4 of Gudalur Village in Periyanaickenpalayam. The said extent of land was originally allotted to the share of the de facto complainant's father late M.Kadhirvel in the family partition dated 01.12.2014 and the partition deed stand registered as Document No.14099 of 2014. After the death of the defacto complainant's father on 22.01.2015, the defacto complainant along with his mother and sisters inherited the property. The death of the defacto complainant's father has been registered with the Birth and Death Registrar, Coimbatore Municipal Corporation and extract of the same was issued on 13.03.2015. Subsequently, the de-facto complainant has also obtained Legal Heir Certificate from the Tahsildar of the Coimbatore North Taluk on 12.05.2015.



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ii) Originally the defacto complainant's grand father Mr.Manian Asari had acquired two acres of land by way of sale deed dated 10.09.1984 registered as Document No.1936 of 1984 at the office of the Sub-Registrar, Periyaaickenpalayam and a patta was issued in the name of the defacto complainant's grand father Mr.Manian Asari to the entire extent, which was later partitioned amongst his sons and daughters by way of a partition deed dated 01.12.2014 in Document No.14099 of 2014. In the partition deed, the xerox copy of the ration card of the de facto complainant's father M.Kadhirvel has been annexed, wherein the details of the family members are also available.

iii) While the de facto complainant and his family members were taking steps to dispose of the properties, they had inspected the property and they were shocked to find out that in the entire extent of two acres of lands, the top soil to the extent of about 30 feet depth has been stealthily and illegally removed by some unknown persons. Fearing that some criminality had been committed, the de-facto complainant had applied for encumbrance certificate and he was shocked to see that a title of document, namely, sale deed has been registered in respect of their land in Document No.14390 of 2020,



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dated 03.11.2020 executed by one Anguselvam (fake name of Shanmugavel, A1), falsely claiming to be the sole legal heir of late M.Kadhirvel, who is the father of the defacto complainant, to and in favour of one G.Vijayaraj, A7.

iv) Further, on verification, it was found that the registration of the sale deed has been done based on fake death certificate, identity card, driving licence and pan cards and thereby the accused, by fabrication of death certificate, legal heir certificate and patta, had grabbed the property and it was found that the Sub-Registrar, Periyanaickenpalayam had also colluded with the other accused and without having a certified copy of the partition deed dated 01.12.2014, he had helped the other accused to register the document. Hence, the defacto complainant had lodged a complaint and based on the same, the case in Crime No.1 of 2023 came to be registered by the Inspector of Police, District Crime Branch, Coimbatore.

3. G.Vijayaraj(A7), who is the purchaser, Kaviraj(A8) & Suresh kumar(A9), who are witnesses to the agreement and Shanmuga Sundram(A10), the Document Writer, had approached this Court seeking



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anticipatory bail in Crl.O.P.No.1677 of 2023 and one Chandrasekar(A6), who claims himself to be the driver of the lorry, which was involved in theft of the sand from the property, had filed Crl.O.P.No.1795 of 2023.

4. When the matter had been listed before this Court on 09.02.2023, the Hon'ble Mrs.Justice T.V.Thamilselvi, had granted interim anticipatory bail to the petitioners in Crl.O.P.No.1677 of 2023 and Crl.O.P.No.1795 of 2023 subject to the following conditions respectively:

In Crl.O.P.No.1677 of 2023

(1) The Sub-Registrar, Periyannayakanpalayam is directed to conduct enquiry with regard to the registration of fake document and sale deed on or before 27.02.2023 and submit the report before this Court on 28.02.2023. The petitioners are also directed to appear before the Sub-Registrar, Periyannayakanpalayam and co-operate for the enquiry.

(2) The 1st petitioner is directed to deposit the sale deed to the credit of Crime No.1 of 2023 before the trial court without and he should file an undertaking affidavit that he would not create any



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encumbrance over the property.

(3) The petitioners are directed to appear before the respondent police every Tues and Saturday at 10.30 a.m., till 28.02.2023.

In CrI.O.P.No.1795 of 2023

(1) The Sub-Registrar, Periyannayakanpalayam is directed to conduct enquiry with regard to the registration of fake document and sale deed on or before 27.02.2023 and submit the report before this Court on 28.02.2023. The petitioner is also directed to appear before the Sub-Registrar, Periyannayakanpalayam and co-operate for the enquiry.

(2) The petitioner is directed to appear before the respondent police every Tuesday and Saturday at 10.30 a.m., till 28.02.2023. “

5. Subsequently, when the matter was listed on 02.03.2023, the Hon'ble Mrs.Justice T.V.Thamilselvi had extended the interim anticipatory bail. On that day, Mr.Senthamizh Selvan, District Registrar, Coimbatore, appeared before this Court and undertook to conduct an enquiry under Section 77-A of the Registration Act. Subsequently, when the matter was taken up on 29.3.2023,



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time was sought for concluding the enquiry and filing report. Hence, the case was adjourned.

6. When the matter was taken up on 1.9.2023, it was brought to the notice of this court by the learned Government Advocate that the District Registrar(Admin), AIG Registration, Coimbatore, after conducting due enquiry filed his Report in his proceedings in Na.Ka.No.1568/A1/2022, dated 18.04.2023 contending that having found that the document has been registered based on fabricated and forged documents, he had cancelled the sale deed. Thereupon, time was sought for filing a Status Report.

7. Further, when the matter was listed before this Court on 15.09.2023, time was sought for conducting enquiry with regard to the fabricated legal heir certificate, driving licence and other documents. It was also submitted that despite the issuance of notice under Section 41-A of Cr.P.C, the petitioners/accused had not appeared for enquiry and thereby, this Court adjourned the matter. On the same day, one K.Suresh, Sub-Inspector of Police, District Crime Branch, Coimbatore, appeared before this Court in person and filed a status report and it is relevant to extract the paragraph 8 of the Status Report:



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“ 8. It is submitted that, the investigation in this case will be completed as soon as the following documents are received:-

1) A report for the genuineness of the legal heir certificate dated 12.05.2015 for Kathirvel from the Thasildar, Coimbatore

North Taluk.

2) A report for the genuineness of the legal heir certificate dated 16.04.2016 for Kathirvel from the Thasildar, Perur Taluk.

3) A report for the genuineness of the driving license No.TN 38 2017 000 1177 in the name of Anguselvam purported to have been issued by the Regional Transport Officer, Coimbatore North.

I further submit that, I have sent reminders on 17.08.2023 to the above said three officers to expedite their replies."

8. Subsequently, when the matter was listed for hearing on 02.11.2023, Mr.Nalliyappan, learned counsel appearing for the petitioners (A7 to A10) in Crl.O.P.No.1677 of 2023 submitted that A7, who is an innocent purchaser, had purchased the property by paying due consideration. The learned counsel also submitted



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that the District Registrar has cancelled the sale deed and that the first petitioner/A7 is ready to file an Affidavit before the District Registrar as well as before this Court undertaking that he will not claim any right over the property and he is also ready to co-operate with the respondent police for investigation.

9. When the matter was listed on 15.11.2023, the learned counsel for petitioners in Crl.O.P.No.1677 of 2023 sought for time to file the Affidavit of Undertaking and thereby, the case was directed to be listed today.

10. A perusal of the sequence of events would reveal that in this case, only Interim Anticipatory Bail has been granted to the accused. The Investigation Officer had reported that the accused had not appeared before them despite issuance of Notice under Section 41-A of Cr.P.C and they have not co-operated for investigation. Whiles, to the shock of this Court one Mr.Sivakumar, Special Sub Inspector of Police, who is present before this Court today, representing the respondent/ Investigation Officer, submits that now investigation has been completed and charge sheet has also been filed before the concerned Court through e-challan and that too deleting A-11 SRO from the array of accused.



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11. It is very much surprising to note that when on the earlier occasion, it was submitted by the respondent police that the accused had not co-operated for enquiry and they have not even appeared for enquiry despite issuance of notice under Section 41-A of Cr.P.C., all of a sudden, today, it is submitted that investigation has been completed and final report has been filed.

12. In view of the fact, this Court finds something fishy in the hasty_manner of completion of investigation and filing of final report, while the petitions for anticipatory bail are still pending before this Court. This Court also had a reasonable apprehension that it could have been done in order to protect A11/ S.R.O, who is also alleged to have involved in this case.

13. In such circumstances, Mr.Murali, Deputy Superintendent of Police, District Crime Branch, Coimbatore and the investigating officer, viz., Mr.K.Suresh, Sub-Inspector of Police are directed to appear before this Court on **27.11.2023** and explain under what circumstances, the final report has been filed in such a hurried manner. "



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4. Subsequently, when the matter was listed on 27.11.2023, this Court had cancelled the interim anticipatory bail granted to the similarly placed co-accused in this case and thereafter, on 08.12.2023, his anticipatory bail petition in Crl.O.P.No.1677 of 2023 was also dismissed. Further, on 08.12.2023, on the submission made by the learned Government Advocate (Crl.Side) that the petitioner in Crl.O.P.No.1795 of 2023 had not appeared before the respondent, despite the notice under Section 41-A of Cr.P.C, this Court had directed the petitioner herein to appear before the respondent for enquiry.

5. Today, when the matter is taken up for hearing, it is reported by the learned Government Advocate (Crl.Side) that pursuant to the order passed by this Court on 08.12.2023, the petitioner herein has appeared for enquiry on 15.12.2023 and his statement has also been recorded. He further submitted that as on date, there is no material evidence to show the involvement of the petitioner in this case, however, he submitted that the petitioner may be directed to appear before the



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respondent for the purpose of investigation. He also submitted that now the Deputy Superintendent of Police, District Crime Branch, Coimbatore, has taken up the case for further investigation.

6. Learned Government Advocate (Crl.Side) further submitted that it is admitted by the Deputy Superintendent of Police that there are certain lapses in the investigation made by the earlier investigating officer and that he himself has personally take up the investigation. Therefore, he seeks that the final report dated 06.11.2023 filed by the earlier investigating officer may be set aside and permission may be granted to the Deputy Superintendent of Police, District Crime Branch, Coimbatore, to continue with the further investigation in Crime No.1 of 2023, pending on the file of the District Crime Branch, Coimbatore.

7. Recording the same, the final report dated 06.11.2023 filed by the respondent, in connection with the Crime No.1 of 2023, before the learned Judicial Magistrate No.6, Coimbatore, is set aside. Further, the Deputy Superintendent of Police, District Crime Branch, Coimbatore, is



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directed to take return of the final report filed before the Court concerned and he is directed to continue with the further investigation and file the final report after conducting proper investigation as expeditiously as possible, preferably, within a period of four months from the date of receipt of a copy of this order.

8. Further, the petitioner in Crl.O.P.No.1795 of 2023 shall co-operate with the respondent by appearing before the respondent everyday at 10.30 a.m., for a period of two weeks and thereafter, as and when required for investigation.

7. With the above directions, this Criminal Original Petition stands disposed of.

20.12.2023

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20.12.2023