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Crl.M.P.No.6174 of 2023

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in

Crl.OP.No.18112 of 2018

This petition has been filed to cancel the Anticipatory Bail granted to the 2nd respondent herein by this Court in Crl.O.P.No.18112 of 2018 dated 20.11.2018.

2. The case of the prosecution is that the defacto complainant's husband owned property, comprised in Survey Nos.3589/2A, 3590/2A, 3590/18, 3589/3A and 3592/2, situated adjacent to the Mannarkudi bus stand. He executed a Will in favour of his two sons viz., Selvam and Raja and the same was registered vide document No.31/1987, dated 20.07.1987 in the Sub Registrar Office, Mannarkudi. As per the Will, the two sons can equally enjoy the schedule mentioned property of the Will without any right to alienate the property. The defacto complainant's husband died on 29.08.1987 and thereafter, A1 and another son Raja were enjoying the property after partition of the said property in the year 1989.

3. It is alleged that A1/Selvam, in order to grab the property



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of his brother Raja, scolded, threatened and abused the defacto complainant, who is none other than his own mother, and also his brother Raja, obtained their signature in several blank stamp papers. It is alleged that due to the unbearable torture given by A1/Selvam, the said Raja died on 24.06.2010 by committing suicide, leaving behind the defacto complainant, his wife and daughter.

4. In order to grab the property belonging to Raja, A1/Selvam and his two sons, viz., A2/James & A3/John, executed a forged General Power of Attorney in respect of the property belonging to the deceased Raja, in favour of A4/Amutha, wife of A5/the 2nd respondent herein and registered the same vide document No.194 of 2011 dated 02.05.2011 in the Sub Registrar Office, Mannarkudi. In the said Power of Attorney, A8 and A9 have signed as witnesses. Subsequently, the accused 1 to 5 created a forged death certificate of the defacto complainant/Gnanambal, as if she died on 25.02.2011. By using the said forged death certificate, A4 executed a sale deed in favour of A7 in respect of the Will schedule property of Raja by impersonating a woman, as if she is the wife of Raja by producing a forged Family Card.



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The investigation reveals that the wife of deceased Raja never appeared before the Sub Registrar office, Mannargudi and that her family card was forged and used for the offence. Further, A5 and A6 were the witnesses to the said Sale Deed executed by A4 in favour of A7. Hence the complaint.

5. The 2nd respondent is arrayed as 5th accused, who is the husband of A4. A1 to A3 had executed Power of Attorney in favour of the 4th accused viz., wife of the 2nd respondent herein. It was registered vide document No.194 of 2011 dated 02.05.201. Pursuant to the registration of the FIR, the 2nd respondent/5th accused apprehends arrest at the hands of the petitioner. Therefore, he approached this Court for Anticipatory Bail in Crl.OP.No.18112 of 2018 along with A4.

6. This Court, by an order dated 20.11.2018, granted anticipatory bail to the 2nd respondent/5th accused and dismissed the application for A4, on condition that the 2nd respondent shall appear before the petitioner as and when required for interrogation. Subsequently, the 4th accused was granted Anticipatory Bail by this



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Court in Crl O.P. No.15465 of 2021 dated 08.09.2021. It was challenged by the defacto complainant on the ground that the 5th accused is the king behind the entire episode and husband of A4 to play vital role in favour of A4

7. Further, he created death certificate of the defacto complaint and impersonated the defacto complainant for registration of Sale Deed in favor of the 7th accused. Therefore the Supreme Court of India directed the 4th accused to appear before this Court on 08.12.2022. Accordingly, this Court cancelled the Anticipatory Bail granted to the 4th accused by an order dated 19.01.2023. Even today, the 4th accused cannot be secured for interrogation. On that ground, this petition has been filed to cancel the Anticipatory Bail of the 5th accused viz., 2nd respondent herein.

8. In order to secure the 4th accused, the petitioner cannot file a petition to cancel the Anticipatory Bail granted to the 5th accused. Therefore this Court finds no merits in this petition to cancel the anticipatory bail granted to the 2nd respondent herein. Accordingly, this



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petition stands dismissed. If at all the 2nd respondent is required for interrogation, the petitioner can very well issue summons to the 2nd respondent herein for interrogation. If he fails to appear for interrogation, then the petitioner can very well approach this Court for cancellation of anticipatory bail.

30.08.2023

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G.K.ILANTHIRAIYAN, J.



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