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Crl.O.P.Nos.8554, 9881 & 17161 of 2023

Crl.O.P.Nos.8554, 9881 & 17161 of 2023
and Crl.M.P.Nos.5982 of 2023 & 19357 of 2023

C.V.KARTHIKEYAN,J.

A2 has filed Crl.O.P.No.8554 of 2023, A3 and A4 have filed Crl.O.P.No.9881 of 2023 and A5 has filed Crl.O.P.No.17161 of 2023, all in Crime No.6 of 2023, registered under Section 420 r/w 34 of IPC.

2.In Crl.O.P.No.8554 of 2023, the petitioner has also filed Crl.M.P.No.5982 of 2023 seeking amendment to incorporate the crime number as Crime No.6 of 2023. Originally, Crl.O.P.No.8554 of 2023 has been filed without indicating the crime number and after verifying and after getting that particular information, the application seeking amendment has been filed.

3.The amendment application stands allowed. Registry is directed to carryout necessary amendment in the petition in Crl.O.P.No.8554 of 2023 indicating FIR in Crime No.6 of 2023 and while issuing the order copy also indicate that it relates to FIR in Crime No.6 of 2023.



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4.The case of the prosecution, is that a complaint had been filed by one Suresh Kumar Jalan, who incidentally is not only a shareholder of M/s.East Coast Steel Private Limited, a Private Limited Company whose lands were subject matter of sale and which had directly led to the complaint being lodged, but also the adjacent land owner to the lands of the said Company. This factor is pointed out by the learned Senior Counsels for the petitioners in one unison. They stated that the complaint had been lodged by a person, who questions the sale of lands of the Company when he is directly interested as adjoining land owner. The claim of bonafide holding of shares of the Company also questioned.

5.It is the case of the prosecution that on 15.04.2023, they received a complaint stating that the accused persons who are Chairman and Directors of said East Coast Steel Private Limited at Puducherry, with dishonest intention and without making proper advertisement and without following the tender norms and concealing all material facts to the defacto complainant, who claims that he has a right in view of his status as shareholder, and also the other shareholders, had colluded and



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sold the property measuring about 54.86 acres at Bahour Commune at Puducherry, for consideration of about Rs.43/- crores, whereas it is claimed that the market value of the said property is far more than that consideration.

6. Primarily, it is the contention of the learned Public Prosecutor, Puducherry, for the respondent that the offence under Section 420 of IPC is attracted owing to under valuation of the said property. In this connection, the learned Public Prosecutor, Puducherry, pointed out the advertisement issued and the schedule of the property stated the boundaries had not been given therein, where even the S.Nos of the property had not been given, and it was only mentioned as lying at Puducherry with sketchy details.

7. The learned Public Prosecutor, Puducherry for the respondent also pointed out that it is the specific case of the respondent that no bidders had bid for the purchase of the land, but the accused persons had taken a decision to convey the land to the purchasers for a ridiculous rate



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of Rs.43/- crores. It is specifically stated that owing to this particular sale, the Government of Union Territory of Puducherry stood to loose revenue from registration charges and stamp duty and also the shareholders stood to loose consequent to the under valuation of the property and in the lesser sale consideration being received.

8.The Company has a long history of being faced with litigations for suppression and mismanagement. As against orders passed, the matter had touched the portals of the Supreme Court wherein, the defacto complainant herein had suffered orders to his disadvantage. It is complained by the learned Senior Counsels that the defacto complainant had entered into the picture only with view to grab the lands, which are adjacent to his lands and is using his position as shareholder, only to hide his real intention to grab the lands. After the lands had been sold, he had lodged the complaint stating that the land had been sold for lesser consideration than what should have been sold for.



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9. Even before proceeding further, it should be mentioned that any land belonging to any owner, even a Company or an individual which is surrounded by litigation, would be the object of purchasers who would try their best to purchase them at lesser price. That purchaser actually comes forward to purchase such lands surrounded with litigation itself would be a step forward. But it is only inevitable that purchasers would come forward to purchase such lands for lesser consideration keeping in mind the surrounding litigation. When there are no purchasers, at times decisions are forced to be taken to convey the lands for what could be termed the best available quoted consideration.

10. In the instant case, so far as the Union Territory of Puducherry is directly concerned, it is alleged that there was loss in revenue owing to the under valuation of the property, but it is also pointed out that the Union Territory of Puducherry had given a letter that the difference in the stamp duty registration charges had been paid and therefore, there had been no actual loss to the Union Territory of Puducherry.



11.The only aspect which then remains to be examined is whether the defacto complainant, as a shareholder would have a right to question the sale by the Company, following a process, which could be termed as colourable. But, if the defacto complainant has lands adjoining the lands of the Company then he should have been in the knowledge about all the facts, being a party to the litigations and having initiated litigations against the Company to the disadvantage of the Company.

12.The question which begs an answer then is whether the defacto complainant could also be termed as a bystander, not do anything and thereafter, complaining when the lands were actually sold. The records relating to the sale have been seized and prosecution will have to establish the charges during trial. The defacto complainant will have opportunity to tender admissible evidence to assist the prosecution to establish the charges.

13.The one issue which troubles the mind of this Court is the report of the Investigating Officer that A5 and A6, had not co-operated during the course of investigation.



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14.The learned Senior Counsel for A5, who had filed Crl.O.P.No.17161 of 2023, however stated that notices had been issued under Section 41-A of Cr.P.C., and there was an unfortunate death of a mother and a very close relative of A5, which prevented him from coming over in person to answer the notices issued under Section 41-A of Cr.P.C., but however, also stated that a written reply had been given along with requisite documents.

15.In the counter statement, no such complaint is levied against the other accused, who are before this Court. This allegation is only against A5 and A6. A6 is not before this Court and has not filed any application seeking anticipatory bail.

16.The issue then has to be narrowed down to only one aspect about the sale of the lands for consideration of Rs.54/- crores by the Company and the procedure adopted for such sale and whether adequate sale consideration was received. The further allegations which have to be



examined is whether the defacto complainant has a right to question that particular sale as a shareholder, and in that context a further question which begs an answer is whether he is questioning that sale in a bonafide manner or in his personal interest. The fact that he has lands adjoining to the lands which had been sold is a significant factor and there could be a possibility of him being disappointed that he was not able to get hold of the lands which had been actually sold by the Company.

17. There will be irregularities in the conduct of any sale but as also pointed out by the learned Senior Counsels, it is a sale simpliciter by a Private Company of its land and there cannot be guidelines or strict rules laid down for procedure to be adopted for such sale. If the consideration received is less, then, a representation is made by the learned Senior Counsel that the purchaser could still be convinced to part with additional sale consideration to equal the consideration the respondent respondent is of the opinion is a proper sale consideration.

18. Taking all these factors into consideration, and since there are applications seeking anticipatory bail, the only factors which have to



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be examined is whether the accused would abscond from judicial process, whether they would hamper or tamper the investigation or with documents already seized or with the witnesses. It is seen that the allegation that is laid against A5 is that he had not co-operated with the Investigating Agency. No such allegation has been raised against the other petitioners. Even so far as A5 is concerned, an explanation has been given the death of mother and an immediate relative which factors prevented him from appear before the Investigating Officer, and to show his bonafide, he had forwarded written explanations to the Investigating Officer.

19.Representations have been made by the defacto complainant and intervening applications have also been filed in the applications. However, an adjournment was sought and that in one of the applications, an intervening application has to be filed. But during the course of this order, it had been stated that the bonafide of the defacto complainant himself has to be examined.



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20. Taking all these factors into consideration and placing a caveat on the petitioners to participate in the enquiry and taking into consideration the fact that except A5, the other petitioners had appeared before the Investigating Officer in response to notices issued under Section 41-A of Cr.P.C., I am inclined to grant anticipatory bail to the petitioners herein subject to the following conditions:

21. The respondent is at liberty to once again issue notice under Section 41-A of Cr.P.C., by calling upon the petitioners to appear and the petitioners shall disclose all the information commencing from the reason for the sale of the land, the procedure adopted for the sale of the land, the documents involved in the sale of the land, the nature of the advertisement issued for the sale of the lands and the purchasers who had bid for purchase of the lands and the final offer received for the sale of the lands and the actual sale consideration and every other connected matter.

22. All these details must be disclosed. If the Investigating Officer is of the opinion that there is deliberate attempt to screen



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valuable information, certainly the respondent is at liberty to file an application seeking cancellation of this anticipatory bail order granted to these petitioners.

23. Accordingly, the petitioners in all the petitions are ordered to be released on anticipatory bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the **Chief Judicial Magistrate, Puducherry**, on condition that the petitioners shall execute separate bond for a sum of **Rs.10,000/- (Rupees Ten Thousand only)** each with two sureties 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, failing which, the petition for anticipatory bail shall stand dismissed 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 Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.



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[b] the petitioners shall report before the respondent police once in a week i.e., on every Saturday at 10.30 a.m., for a continuous period of four weeks and even in between whenever notices under Section 41-A are issued and thereafter, as and when required.

[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 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 229A IPC.

24.Connected Crl.M.P.No.19357 of 2023 is closed.

11.12.2023

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