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Crl.O.P.No.9346 of 2023

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and Crl.MP.No.8071 of 2023

A.D.JAGADISH CHANDIRA, J.

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 465, 467, 468 and 471 and 120(B) of IPC in Crime No.35 of 2023 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution in brief is that the property located in Old Survey No.227, New Survey No.227/2, situated at No.154, Jaladampettai Village, Tambaram Taluk, Kancheepuram District, Chennai – 601 302, to an extent of 27 cents originally belonged to Late Perumal Naicker who died intestate leaving behind 1.Balakrishna Naicker, 2. Jagannatha Naicker and 3.Gopal Naicker as his legal-heirs. That three of them entered into a Partition Deed in Document No.457 of 1997 on the file of District Registrar, South Madras, that except for the above mentioned property all the partitioned properties were sold, that in the year 1997, a Partition Suit was filed by Natrajan Son of 1.Balakrishna Naicker against the other legal-heirs in



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O.S.No.201 of 1997 and the same ended in compromise and the suit was

decreed on 19.09.1997, after which the above-mentioned property was divided into three shares, 1) 9 cents were allotted to P.Natarajan who died intestate leaving behind A3, A5, A6, A7 and 1 other as his legal heirs, 2) 9 cents were allotted to A1, A2 and A4, 3) 9 cents were allotted to G.Krishnamurthy who died intestate leaving behind A8 and 4 others as his legal-heirs, that A1-A8 were the absolute owners of the above-mentioned property and were possession of the same. That on 04.08.2006 three separate Power of Attorney were registered in favour of 1) Prathap Kumar in Doc Nos.1859/2006, 1860/2006 and 1861/2006 on the file of District Registrar, Madras South. That based on the Power of Attorney 3 separate Sale Deeds were registered, that 1) 9 cents belonging to A3, A5, A6 and A7 was registered as Doc.No.179 of 2007 in favour of K.Santhosh (sister of Defacto Complainant), 2) 9 cents belonging to A1, A2 and A4 was registered as Doc. No.180 of 2007 in favour of Kesarimall (father of defacto complainant), 3) 9 cents belonging to A8 was registered as Doc No.179 of 2007 in favour of K.Santhosh (sister of defacto complainant), that the defacto complainant was not able to take care of the property till 2014,



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taking advantage of their situation the accused persons entered into a registered Sale Agreement with (1) Bharahidajan on 21.08.2009 at Temporary Joint Sub-Registrar, Joint-1, South Chennai and the same was cancelled on 03.12.2009 and on the very same day another Sale Agreement was registered with A9 and the same was registered as Doc No.6140 of 2009 and on the strength of the Sale Agreement as Sale Deed was registered in Doc No.1092 of 2010 in favour of Manoharan and was the property originally sold to the family of the defacto complainant in the year 2007. A detailed representation was given to the Registration Department and W.Ps 9754 of 2021 and 9756 of 2021 were filed by the defacto complainant further a common order was passed on the same on 20.04.2021, based on the order a detailed enquiry and passed an order vide Na.Ka.No.1016/E2/2021 to make entries in Doc No.399/2009, 6116/2009, 6140/2009 and 1092/2009 were forged documents and restrained the accused persons from creating any further encumbrance in view of above mentioned reasons. Those entries were made in Index-II of EC mentioning the documents executed were forged and fabricated. Hence, the case.

3. Mr.John Sathyan, learned Senior Counsel for the petitioners would



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submit that the petitioners are innocent purchasers having purchased the property by way of registered sale deed dated 29.08.2016 after paying the consideration of Rs.2,60,00,000/-. He further submit that the petitioners being bonafide purchasers had paid the entire consideration by way of cheques for the amount of Rs.2,60,00,000/- and only when they applied for building permits, they came to know that they have been cheated by the other accused who are related to the defacto complainant. He further submit that the first petitioner is an Engineering graduate and the proprietor of a well-reputed construction company and the second petitioner is the wife of the 11th accused who works along with the first petitioner in the project. He further submit that the first petitioner's title over the property flows from entire different set of transaction and it is no way connected with the claim made by the defacto complainant and further the petitioners being the innocent purchasers and victims cannot be charged for offences for forgery and fabrication of documents and thereby he would seek for anticipatory bail to the petitioners.

4. The learned Government Advocate (Crl.Side) appearing for the



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respondent would submit that the petitioners are arrayed as A10 and A12. The main accused by fabrication of documents have sold the property to A10, who is the subsequent purchaser and the second petitioner is A12, Power of Attorney who had applied for building permits on behalf of A10. He further submitted that the arrested accused have been enlarged on bail. Hence, he opposed for the grant of anticipatory bail to the petitioner.

5. Mr.Abudhur Kumar Rajarathinam, learned Senior Counsel for the intervenor /defacto complainant would submit that the main accused who have no claim over the property based on the fabricated documents dated 19.02.2010 vide Document no.1092/2010 registered at Joint Registrar, No.1, Saidapet, Chennai have constrained the petitioners herein and have attempted to knock out the valuable property belonging to the defacto complainant. He would further submit that as on date the documents based on which the petitioners claim title has been cancelled by the District Registrar. He would further submit that the defacto complainant are in possession of the property.

6. Heard the learned counsel on both sides and perused the entire



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materials available on record including the First Information Report.

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7. As per the prosecution, the petitioners are stated to be the purchasers of the disputed property. It is the claim of the first is that he being the purchaser had purchased the property by paying the entire consideration through bank transaction and that the arrested accused have also been enlarged on bail.

8. Considering the facts and circumstances of the case and also the submissions made by the learned counsel on either side and taking note of the fact that the custodial interrogation of the petitioners may not be required, this Court is inclined is inclined to grant anticipatory bail to the petitioners with certain conditions.

9. 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



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the date on which the order copy is made ready, before the Land Grabbing Special Court No.II, Allikulam, on condition that the petitioners shall execute separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each 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.

[b] the first petitioner shall report before the respondent police everyday at 10.30 a.m, for a period of four weeks and thereafter on every Saturday at 10.30 a.m, until further orders;

[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



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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;

9. Accordingly, this Criminal Original Petition is ordered. Consequently, connected Miscellaneous Petition is closed.

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