



Crl.O.P.No.12699 of 2023

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Orders Reserved on
13.09.2023

Orders Pronounced on
26.09.2023

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RMT. TEEKAA RAMAN., J.

The petitioners who are arrayed as accused apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 465, 467, 468, 471 and 120B of IPC, registered in Crime No.35 of 2023, seek anticipatory bail .

2(i) The 2nd petitioner was the absolute owner of the property, which is a vacant site which was purchased by way of sale deed dated 03.11.93 from one Girija w/o Thulasidas and the same was registered as Document No.3602 of 1993 at Joint Sub Registrar Office, Saidapet. From the date of purchase of the said property, the 2nd petitioner and her family members have been in peaceful possession and enjoyment of the same.

2(ii) The property to an extent of 29 cents comprised in Survey No.227 situated at Jelladianpet Village, Sholinganallur Taluk, Chengalpattu District originally belonged to one Logammal, she having obtained the same



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by way of settlement deed dated 09.02.77 and the said settlement deed was registered as Doc.No.108 of 1977. The said Logammal has only one daughter namely Malliga. After the demise of the said Logammal, the said property was devolved upon to the said Malliga based on the inheritance. While being so, the said Malliga executed a General Power of Attorney dated 14.02.1991 in favour of her daughter Girija. Based on the said Power of Attorney, the said Girija with one Alamelu executed an Exchange Deed dated 11.03.1991 for the purpose of getting access to the main road since there was no approach for the said property. The said Girija sold the property to the 2nd petitioner and she became the absolute owner of the property.

3(i) The learned counsel for the petitioner submitted that the 2nd petitioner filed a suit for declaration and injunction in O.S.No.297 of 2005 before the District Court at Chengalpattu and the same was decreed exparte as prayed for by order dated 19.11.2007. Thereafter, in the year 2013, one Ethiraj and Sasi approached the 2nd petitioner and expressed their willingness to purchase the said property and after negotiation, the sale agreement dated 11.07.2013 was executed between the 2nd petitioner and one Manoharan. Subsequently, the 2nd petitioner and 3rd petitioner



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executed a Sale Deed in favour of Panneer Ramachandran and Ethiraj and the sale deed was registered as Doc.No.9074 of 2016 at Joint Sub Registrar Office - I, Saidapet, Chennai. There is no allegation levelled against the petitioners and they are not arrayed as accused in the FIR.

4. Heard the learned counsel for the petitioner as well as the intervenor and the learned Government Advocate (crl.side).

5. The Flow chart derived titling as per the defacto complainant's version, as per accused version has been filed by both the petitioners herein (accused) as well as the police.

6. After perusing the flow chart, as per the accused version as well as per the police version, the present case has been instituted by Vishal s/o Kesarimal, complainant who is one of the legal heir of the deceased Kesarimal who died on 23.10.2014. Seven persons claims that they had purchased the property from Prathap Kumar who in turn obtained General Power of Attorney from three branches. After perusing the flow charges of title both sides, I find that subject matter of title is 29 cents comprised in



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Surey No.227, New S.No.227/2 situated at No.154, Jeladampettai Village, Tambaram Taluk. It appears from the settlement deed dated 09.02.1997 that Jaganatha Naicker, Balakrishnan and Gopal have settled the property in favour of Logammal w/o Balakrishnan, D/o Perumal Naicker. After executing the 27 cents + 2 cents for the pathway, balance of property appears to have been partitioned among the three brothers stated above on the very same day, namely 09.02.1997. It appears that after the death of the Balakrishnan, some legal heirs of the said person have filed suit in O.S.No.201 of 1977 against the legal heirs of Jaganatha Naicker, Balakrishnan and Gopal and in a compromise memo, 9 cents each was divided to three families. At this juncture, 29 cents out of which 2 cents have been given to pathway and 27 cents were already given to Logammal, none of the legal heirs of Logammal were made as a party. Hence I find that the submission of Mr.Palanivel, learned counsel for the petitioner that the decree in O.S.No.201 of 1977 is a collusive and fraudulent decree and the land was not available for partition when the respective fathers already settled the properties in favour of Logammal. On the above factual background, I am inclined to grant anticipatory bail to the petitioners.



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7. 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 the date on which the order copy is made ready, before the learned **Special Court - II for Lab Grabbing, Allikulam, Chennai** on condition that the petitioners 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, 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 petitioner shall report before the respondent police on Saturday at 10.30 a.m., until further orders;

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.



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[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner 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.

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RMT. TEEKAA RAMAN., J.

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