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CrI.O.P.No.17116 of 2023

Criminal Original Petition No.17116 of 2023

Reserved on	17/8/2023
Pronounced on	24/8/2023

RMT.TEEKAA RAMAN,J

* * * * *

ORDER

This Criminal Original Petition has been filed to enlarge the petitioners on anticipatory bail in the event of their arrest by the respondent Police in Crime No.310 of 2023 for the offences punishable under Sections 406, 420, 468, 471 and 120 (B) of the Indian Penal Code, 1890, on the file of the Singanallur Police Station, Coimbatore City,

2. The case of the petitioners is that the first petitioner is a tenant under the property which belongs to Mr.P.Devaraj and Mr.R.Ramaswamy/landlords situate at 435, Trichy Main Road, Singanallur, opp to Vasantha Mills, Coimbatore. Mr.P.Devaraj has leased out the above said property to the first petitioner for a sum of Rs.50,000/- p.m., and received an advance of Rs.10,00,000/-. The first petitioner has commenced a restaurant business

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under the name and style of “Absolute Briyani (Prithika Consultants)”, and has invested about Rs.15,00,000/-. Despite there being subsisting lease, without any basis, to evict the first petitioner, the landlords have started creating trouble from January 2023. Hence, the first petitioner, lodged a complaint which was taken as C.S.R.No.137 of 2023. Since there was no progress, the first petitioner has filed a Civil Suit in O.S.No.131 of 2023, before the IV Additional District Munsif, Coimbatore, seeking the relief of permanent injunction against the landlords from evicting the first petitioner.

3. Pending Civil Suit, the landlords and first petitioner have amicably resolved the dispute and a compromise memo has been filed to that effect before IV Additional District Munsif, Coimbatore, and accordingly, the suit was withdrawn, on condition, the first petitioner has to vacate the premises on or before 19/7/2023. After withdrawal of Civil Suit, landlords have entered the premises and threatened the first petitioner. Hence, the first petitioner has filed a petition to restore the suit. Pending Restoration Petition, the petitioners have filed the instant Criminal Original Petition praying for the relief as stated supra.



4. Heard Mr.Naveen Kumar Murthi, learned counsel for the petitioners, Mr.N.U.Pressanna, learned counsel for the Intervenor and Mr.Leonard Arul Joseph Selvam, learned counsel for the respondent.

5. Learned counsel appearing for the intervenor submitted that on the basis of the trust reposed over the first petitioner, the defacto complainant has leased out his property in the month of September 2021. When the first petitioner failed to pay the rent from the month of February 2022, it came to the knowledge of the defacto complainant that the first petitioner has leased the property to the third party, without his knowledge.

6. The learned Government Advocate submitted that the first accused, who is the tenant, sub-leased the property to third party by creating forged documents, without the knowledge of the landlords, viz., the defacto complainant.

7. Perused the materials available on record.



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8. The crux of the complaint is that two lease agreements are said to have been executed. First lease deed, dated 24th July 2021 was executed between the second petitioner herein and Mr.V.Devaraj/defacto complainant and the rent deed, dated 19/3/2022, was between Devaraj and Prithika Gokul Kumar/second petitioner herein. In both the agreements, the first petitioner is disputing the signature of Mr.Devaraj, which is a matter for investigation.

9. Considering the above materials available on record, this Court is of the considered view that there are materials to proceed against the first petitioner herein. However, insofar as the second petitioner is concerned, though the second petitioner has entered into the lease agreement, the fact remains that the second petitioner in the capacity of representative of Prithika Consultants had entered into the lease deed and the first petitioner being the person running Prithika Consultants, as is evident from the suit in O.S.No.131 of 2023 and considering the fact that the second petitioner is a lady and she has no further association in the business transactions, and no other material is placed to show that the second petitioner's association in the business, this Court is inclined to anticipatory bail to the second petitioner alone.

10. In such a view of the matter, this **Criminal Original Petition is**



dismissed, insofar as the first petitioner is concerned.

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11. Insofar as the second petitioner is concerned, this Court is inclined to grant anticipatory bail on certain conditions. Accordingly, the second petitioner is ordered to be released on bail, in the event of arrest, or on her appearance, within a period of fifteen days from the date on which the order copy made ready, before the **learned Chief Judicial Magistrate, Coimbatore**, on condition that the second petitioner executes a bond for a sum of **Rs.10,000/- (Rupees Ten thousand only) with two sureties** for a like sum to the satisfaction of the learned Magistrate and on further condition that :

[a]the second petitioner 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 second petitioner shall report before the respondent police as and when required

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

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

[e] on breach of any of the aforesaid conditions, the



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learned Magistrate/ Trial Court is entitled to take appropriate action against the second petitioner in accordance with law as if the conditions have been imposed on the second petitioner by the learned Magistrate/Trial Court as laid down by the Hon'ble Supreme Court in ***P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]***; and

[f] if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

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Index : Yes / No

Internet: Yes

Speaking/non speaking order

mvs.



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RMT.TEEKAA RAMAN
mvs.

Pre-delivery order made in
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