



Crl.O.P.No.21897 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2023

CORAM

THE HON'BLE MR. JUSTICE **C.V.KARTHIKEYAN**

Crl.O.P.No.21897 of 2023

S.Tamil Kumaran ...Petitioner /defacto complainant

Vs.

1. The State Represented by
 The Inspector of Police
 Jalagandapuram Police Station
 Mettur Taluk, Salem District.

... 1st Respondent/Respondent/Complainant

2. Chandrika
3. Murugan
4. Ragunathan
5. Sumathi
6. Karthick
7. Nandha Kumar



Crl.O.P.No.21897 of 2023

8

Saravana Kumar

... Respondents 2-8/Petitioners 1-8/Accused 1-8

PRAYER:Criminal Original Petition is filed under Section 482 of Cr.P.C. praying to cancel the anticipatory bail granted to the respondents 2-8 in Crl.M.P.No. 1180 of 2023 on the file of the Principal Sessions Judge at Salem District in connection with Crime No. 75 of 2023 on the file of the first respondent police registered for offences under Sections 147, 148, 294(b), 341, 324, 427 and 506(ii) of IPC.

For Petitioner : Mr. C.Arun Kumar

For 1st Respondent : Mr. R.Vinoth Raja
Government Advocate, (Crl. Side)

For RR 2 to 8 : M/s. P.Pandi Meena

ORDER

This petition has been filed by the defacto complainant seeking to cancel the anticipatory bail granted to the second to eighth respondents in Crl.M.P.No. 1180 of 2023 by the Principal Sessions Court at Salem.



Crl.O.P.No.21897 of 2023

WEB COPY

2. Originally, FIR in Cr.No. 75 of 2023 had been registered by the first respondent under Sections 147, 148, 294(b), 341, 324, 427 and 506(ii) of IPC. The accused therein, who are the second to eighth respondents herein had filed an application seeking anticipatory bail in Crl.M.P.No. 1180 of 2023. By an order dated 28.04.2023, the learned Principal Sessions Judge at Salem had granted anticipatory bail. Among other conditions imposed, the following condition was also one:-

“4. That the petitioners shall not visit the place of the defacto complainant either residence or his form land at any point of time since it will be amicably settled among the parties if it will be noticed or brought to the knowledge of the Court the anticipatory bail shall stands automatically dismissed.”

3. Complaining that the second to eighth respondents had however interfered with the possession of the petitioner herein, this



Crl.O.P.No.21897 of 2023

WEB COPY

application has been filed seeking cancellation of anticipatory bail granted.

4. The entire issue surrounds vacant land wherein coconut trees are grown at Surappalli Village, Jalagandapuram, Mettur in Mettur Taluk in Salem District over which the petitioner herein claims title. He had occasion to lodge a complaint that the second to eight respondents, who are strangers, but accompanied by his cousin and uncle, had entered into the said lands and abused the defacto complainant and caused damage in the said lands.

5. It is only on that basis that aforementioned condition had been imposed by the learned Principal Sessions Judge at Salem as one of the conditions to be maintained by the second to eight respondents for grant of anticipatory bail.

6. It is evident from the records that there is a dispute with respect to title and possession of the said lands. Neither the Principal Sessions Judge at Salem nor this Court can adjudicate title or possession. Those are issues which can be examined and determined only by a



Crl.O.P.No.21897 of 2023

WEB COPY

competent Civil Court having jurisdiction vested to so examine such issues. They can be determined only on the basis of admissible evidence adduced by the parties during the course of trial. Such evidence should also be tested during the course of cross examination. This Court in order to maintain a balance between the two parties had directed that the petitioner herein and also the second to eight respondents should both file affidavits that they will not interfere with possession or enter into the said lands. Accordingly, affidavits have been filed. But one factor which has now come to light which is evident in the affidavit filed on behalf of the respondents and sworn by the seventh respondent is that the petitioner herein had filed O.S.No. 356 of 2022 which is pending on the file of Sub Court at Mettur and the second to eighth respondents have filed O.S.No. 314 of 2022 and O.S.No. 357 of 2022 both before the Sub Court at Mettur and also O.S.No. 124 of 2022 before the District Muf Court at Mettur. If the issue of title or possession or protection of possession is directly in issue in any of those Courts, then if a decree is passed then such decree should be respected and this particular condition imposed while granting anticipatory bail would submerge with the



Crl.O.P.No.21897 of 2023

WEB COPY

decree. It would no longer be in effect and the decree would be paramount. Placing that as a caveat, I direct both parties to approach the Civil Court and get appropriate reliefs. Though the anticipatory bail which had been granted is not cancelled, I would direct both parties to respect the possession as on date on the aforementioned lands and subject themselves to the jurisdiction of the Civil Court so far as the title and possession is concerned.

7. The said affidavits are recorded. This Criminal Original Petition stands disposed of.

Vsg

21.12.2023

Index: Yes/No

Internet: Yes/No

To

1. Principal Sessions Court, Salem.
2. The Inspector of Police
Deevattipatti Police Station.
3. The Public Prosecutor,
High Court, Madras.



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Crl.O.P.No.21897 of 2023

C.V.KARTHIKEYAN, J.

vsg

Crl.O.P.No.21897 of 2023

21.12.2023