



Crl.OP.No.26099 of 2023

Crl.O.P.No.26099 of 2023

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C.V.KARTHIKEYAN,J.

The petitioners/A1 and A2 in Crime No.382 of 2023 seek anticipatory bail.

2. FIR in Cr.No.382 of 2023 had been registered by the respondent police for the offences punishable under Sections 448, 427, 294(b), 506(2) IPC.

3. The learned counsel for the petitioner stated that the defacto complainant had initiated proceedings under SARFAESI Act and the learned Chief Judicial Magistrate at Erode had appointed an Advocate Commissioner to take possession of the property.

4. It is contended that when possession was sought to be taken, another Advocate had come over instead of the Advocate named in the warrant and therefore, the petitioners resisted handing over possession. This Court sought a report from the learned Chief Judicial Magistrate, Erode. The report dated 08.12.2023 had been received in D.No.2062 of 2023. In the report, the learned Chief Judicial Magistrate had very clearly



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stated that Punjab National Bank at Erode had filed a petition under Section 14(1) and (2) of SARFAESI Act in C.M.P.No.5157 of 2022 and it had been stated that an Advocate Commissioner T.S.Sivanandham had been appointed, but warrant was issued to another Advocate. R.Suresh owing to over sight.

5. It had been stated that subsequently the said Advocate who had been issued warrant by the Court had gone over to the premises where the petitioners were in possession and had taken possession of the property and handed over possession back on 29.07.2022 which is nearly a year and half back. Thereafter by some means the petitioners have taken back possession. This has been the reason for the second complaint to be lodged by the bank authorities who went over to the house to protest and there the offence complained had taken place. It is thus seen that the petitioners had interfered with discharge of duty by an Officer of the Court/Advocate Commissioner.

6. The learned counsel for the petitioner stated that a further appeal had been filed questioning the order of the learned Chief Judicial Magistrate, Erode, but in the same breath, also stated that if this Court is



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inclined to pass the order adverse to the interest of the petitioner, then he would withdraw the application. This is not a representation which could be made in a Court of Law. The Court has to pass orders based on records. The records states that possession had been handed over to the Bank on 22.07.2022. Subsequent possession of the property by the petitioners is unlawful and illegal. They have no right to be in possession and by themselves take over possession back from the Bank. That act has been protested by the defacto complainant. Again, the Advocate Commissioner came. The petitioners appear to have interfered with his duty. The Advocate Commissioner is an extension of the arm of the Court. Everybody is bound to comply with the warrant issued to the Advocate Commissioner. I am not inclined either to permit withdrawal of the petition or to adjourn the matter, but I am only inclined to pass an order. The said order is to dismiss this petition.

7. Accordingly, this Criminal Original Petition is dismissed.

12.12.2023

Vv

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Vv

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