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Crl.OP.No.26510 of 2023

Crl.O.P.No.26510 of 2023
and Crl.M.P.No,19033 of 2023

C.V.KARTHIKEYAN, J.

The petitioner who was arrested and remanded to judicial custody on 12.10.2023 for the offences registered under Sections 406, 420, 465, 466, 467, 468, 471, 120(b) and 506(i) of IPC, in Crime No.41 of 2023 on the file of the respondent Police, seeks bail.

2.The entire issue surrounds the property measuring about 3.04 acres at Race Course Road, in Coimbatore. One Narayanasamy was said to be the owner of the property. It is stated that he had a son who had pre-deceased him. Therefore, both Narayanasamy and the property, became the property of whoever could take control of the said Narayanasamy. There was an illegal way to get hold of the property. It is stated that A1 had brought one Sundarajan who had impersonated Narayanasamy and had executed a Will bequeathing the entire property to Palanivel/A1. A1 is not a blood relation of Narayanasamy. It is claimed that he is “மனதளவு வாரிசு”. It is not known as to how he could classify himself as an heir.

3. The said Will is a forged document and no right or title can flow under the said Will. The said Palanivel therefore cannot have any right over the said property. He had however entered into an agreement with one Sivakumar to sell the property. The agreement itself is a fraudulent document.



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4. Thereafter, A1 had produced a decree, in O.S.No.558 of 2014 passed by the learned I Additional District Munsif, Coimbatore. There are two separate dates of disposal of the suit. One is 18.03.2014 and the other is 20.02.2014. In the suit, the learned District Munsif, had examined a compromise and had therefore granted a decree in favour of the plaintiff /Palanivel to declare that the Will is valid. The said judgement, whatever be the dates, is non-est, is unlawful and has no binding effect on anybody. No Will can be declared to be valid without the same being proved in manner known to law under the provisions of the Indian Evidence Act, 1872 particularly Sections 68 and 69 of the Indian Evidence Act, 1872. No attesting witnesses had been examined to prove the Will and the judgment is based on a compromise between the plaintiff and the defendant. The defendant who should question the Will had agreed to the legality of the Will. The said decree, whatever be the date, whether it is forged, whether it is procured and even if it has been lawfully passed by the learned District Munsif has no value at all. Anybody who wants to use it, can use it for any decorative purposes, but certainly cannot claim any right over any property under the said decree.

5. A direction is given to the learned Principal District Judge, Coimbatore, to call for the records in O.S.No.558 of 2014, on the file of the I Additional District Munsif, Coimbatore and examine the pleadings, the compromise effected and the judgment and decree passed and forward a report about the same to this Court.



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6. The Registry may call for such a report from the learned Principal District Judge, Coimbatore and place a report before this Court by circulation.

7. Acting on the said Will, A1/Palanivel appears to have indulged in receiving sale consideration and in offering the property for sale for consideration of nearly about Rs.40 crores. The defacto complainant herein is one of those who had been lured in believing that A1 had some right over the property and he had paid a sum of Rs.16 lakhs by way of Bank Transfer and another sum of Rs.34 lakhs in cash.

8.It is stated that there is a further power of attorney granted by A1 on 10.02.2021 in a registered document, in which, the petitioner herein had signed as a witness. It is therefore clear that the petitioner had been and continues to be hand in glove with A1. The matter requires investigation.

9.It is also stated on behalf of the defacto complainat by the learned Senior Counsel that there are two further FIRs registered against A1 with respect to the same property in FIR in Crime No.186 of 2016 by the Vadavalli Police Station and FIR in Crime No.640 of 2023 by the Peelamedu Police Station.

10.These facts stare at the face of the accused herein. This Court is not inclined to grant bail to the petitioner.



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11. Hence, this Criminal Original Petition stands dismissed.
Consequently, connected Miscellaneous Petition is also closed.

01.12.2023

vkr

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