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CRL OP(MD)



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

RESERVED ON : 08.03.2023

PRONOUNCED ON : 10.03.2023

PRESENT

The Hon'ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD)No.3605 of 2023

Ravi Selvan ... Petitioner/Sole Accused
Vs

1.The State rep.by,
The Inspector of Police,
Anti-Land Grabbing Special Cell,
Karur District.
(Crime No.7 of 2023) ... Respondent/Complainant

2.M.Bhuvaneeswaran ...Petitioner/Victim
in CRL MP(MD)No.3624 of 2023

3.Saraswathi ...Intervener/Defacto Complainant
in CRL MP(MD)No.3548 of 2023

4.Arjunan ...Petitioner/Victim
in CRL MP(MD)No.3563 of 2023

5.Pappathi ...Petitioner/Victim
in CRL MP(MD)No.3933 of 2023

6.Mehala ...Petitioner/Victim
in CRL MP(MD)No.3938 of 2023

For Petitioner : Mr.M.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates

For Respondent : Mr.B.Thanga Aravindh
Government Advocate (Crl.Side)

For Intervenor : Mr.R.Anand, Advocate
in Crl.M.P(MD)No.3624/2023 for Mr.P.Saravanan, Advocate



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For Intervenor : Mr. John Sathiyar
in Crl.M.P (MD) No.3548/2023 Senior Counsel
for Mr.D.Jebaraj, Advocate

For Intervenor : Mr.S.Meenakshi Sundaram
in Crl.M.P (MD) No.3563/2023 Senior Counsel
for Mr.P.Venkatesan

For Intervenor : Mr.M.Karunanidhi
in Crl.M.P (MD) No.3933/2023

For Intervenor : Mr.S.Hammed Ismail
in Crl.M.P (MD) No.3938/2023

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime No.7 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 420, 465 and 468 of I.P.C in Crime No.7 of 2023 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant lodged a complaint that the land admeasuring to an extent of 23.56 acres comprised in Survey Nos.303/1, 331/1, 341/1, 342/1, 343/1, 344/3, 345/1B1, 377/BA, 346/3 and 378/B3 situated at Thennilai Thengapam Village, Karur District, originally belonged to her father, namely Subbaraya Gounder and he died on 23.08.1993. After his demise, the defacto complainant/Saraswathi, her sister/Pappathi and her brother/Arjunan inherited the said property by succession. While being so, the petitioner fabricated a fake sale agreement, dated 16.04.2007, as if the defacto complainant's brother/Arjunan had entered into an agreement with the petitioner and agreed to sell the said property. It was created in Rs.20/- stamp paper and the stamp paper itself is a bogus document as serial No.3085 and stamp paper No.17AA88851 was sold to another person on 06.09.2007. Therefore, the sale agreement entered between the petitioner and the said Arjunan is not a genuine document. On receipt of the said complaint, the respondent registered the F.I.R against the petitioner in Crime No.7 of 2023 for the offences under Sections 420, 465 and 468 of I.P.C.

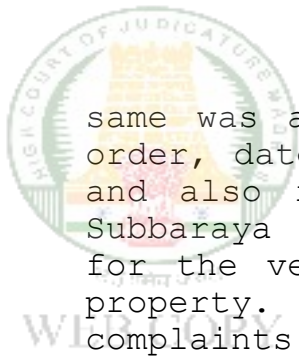
3.Mr.M.Ajmal Khan, learned Senior Counsel appearing for the petitioner submitted that it is a third round of litigation in respect of the very same property. Already the complaint lodged by Pappathi registered in Crime No.1 of 2022 was quashed by



this Court in Crl.O.P(MD)No.18425 of 2022, by order dated 25.11.2022. That apart, in pursuant to the said agreement, dated 16.04.2007, the petitioner filed a suit in O.S.No.6 of 2009 on the file of the learned District Judge, Karur, as against the said Arjunan and two others for the relief of specific performance. After contest, the said suit was decreed in favour of the petitioner by Judgment and Decree, dated 19.11.2011. Aggrieved by the same, the said Arjunan along with two others preferred an appeal in A.S(MD) No.17 of 2012 before this Court and the same was also dismissed by Judgment and Decree, dated 04.02.2022 and thereby confirmed the Judgment and Decree passed by the trial Court. Thereafter, the said Arjunan also filed a review petition in Rev. Petition (MD)No.138 of 2022 against the Judgment and Decree passed in A.S(MD)No.17 of 2012 before this Court and it is reserved for orders.

4.The learned Senior Counsel appearing for the petitioner further submitted that the only defence taken by the said Arjunan in the said suit was that the sale agreement is forged and fabricated one. Therefore, in the instance of the said Arjunan, the agreement for sale had been sent to the expert opinion before the Forensic Laboratory. The expert opinion was obtained on two occasions and concluded that the admitted signature and the signature found in the said agreement for sale are genuine one. On the strength of the appeal suit Judgment and Decree, the F.I.R itself has been quashed by this Court in Crl.O.P(MD)No.18425 of 2022, by order, dated 25.11.2022. In fact, the defacto complainant/Pappathi filed a petition in Crl.M.P(MD)No.44504 of 2022 to re-call the said order in Crl.O.P(MD)No.18425 of 2022 and the same was also dismissed by this Court, by order, dated 01.02.2023. After having failed before the civil Court as well as the criminal proceedings, now the sister of the said Pappathi lodged the present complaint. In fact, for enquiry, the petitioner was called and he was detained illegally. Therefore, it was mentioned before this Court and immediately, he was released and thereafter, interim protection was granted by this Court. This Court, while granting an interim order, recorded the statement made by the learned Additional Public Prosecutor that the petitioner has appeared on summons under Section 41(A) of Cr.P.C and seeks time to get further instructions. Considering the above facts and circumstances, this Court, by order dated 22.02.2023, granted interim protection, thereby directing the respondent not to take any coercive steps against the petitioner.

5.The learned Senior Counsel appearing for the petitioner further submitted that the said Subbaraya Gounder had three issues, namely the defacto complainant/Saraswathi, another defacto complainant/Pappathi and the said Arjunan. So far, the said Arjunan did not lodge any complaint. In the earlier round of litigation, the legal heir of the said Subbaraya Gounder, viz., Pappathi, lodged a complaint and the same has been registered in Crime No.1 of 2022 on the file of the Inspector of Police, CBCID, Karur. The same was



same was allowed and quashed the F.I.R in Crime No.1 of _____ by order, dated 25.11.2022. After having failed before the appeal suit and also review application, now another legal heir of the said Subbaraya Gounder, namely Saraswathi, lodged the present complaint for the very same set of allegations in respect of the very same property. In respect of the very same property, there were complaints as against the petitioner and no one is resulted with any conviction so far.

6.The learned Senior Counsel appearing for the petitioner further submitted that after knowing the fact that the suit for specific performance was pending, two sisters and the said Arjunan had executed a sale deed in favour of the defendants 2 and 3 in the suit. While pending the appeal suit, the said Arjunan filed an application to receive additional documents which were obtained under the Right to Information Act. The said petition was allowed and remanded back to the trial Court in order to mark those documents. Before the trial Court, through D.W.3 Exs.X5, X6 and X7 were marked. Ex.X5 was the application submitted under the Right to Information Act; Ex.X6 was the reply issued under the Right to Information Act and Ex.X7 was the invoice for the stamp paper furnished by the District Treasury. However, it does not contain any document stamp paper number and as such, the first Appellate Court rightly dismissed the appeal suit, since the information furnished under the Right to Information Act cannot be taken into account. The agreement for sale was executed by the said Arjunan on 16.04.2007. All along, the petitioner was granted anticipatory bail and the expert opinion was also issued in favour of the petitioner. Therefore, the present complaint itself is nothing but clear abuse of process of law and it cannot be sustained as against the petitioner. In fact, after referring the agreement for sale to the Central Forensic Laboratory, Hyderabad, the Forensic expert opined that both the admitted signature and the signature found in the agreement for sale are one and the same. Therefore, custodial interrogation of the petitioner does not require, since all the documents were already marked before the civil Court and sought for anticipatory bail.

7.The defacto complainants filed petitions to intervene in the anticipatory bail petition as follows:-

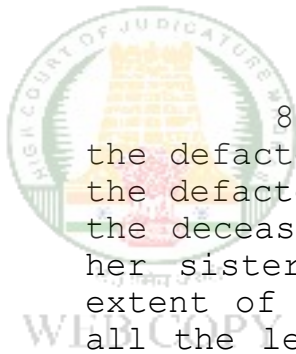
(i) CrI.M.P(MD)No.3548 of 2023 is filed by one Saraswathi, who is the legal heir of the said Subbaraya Gounder.

(ii) CrI.M.P(MD)No.3563 of 2023 is filed by one Arjunan, who is the legal heir of the said Subbaraya Gounder.

(iii) CrI.M.P(MD)No.3938 of 2023 is filed by one Mehala, who is the daughter of the said Arjunan.

(iv) CrI.M.P(MD)No.3933 of 2023 is filed by one Pappathi, who is the legal heir of the said Subbaraya Gounder.

(v) CrI.M.P(MD)No.3624 of 2023 is filed by one Bhuvaneeswaran, who is the subsequent purchaser.



8.Mr.John Sathiyar, learned Senior Counsel appearing for the defacto complainant in CrI.M.P(MD)No.3548 of 2023 submitted that the defacto complainant/Saraswathi is also one of the legal heirs of the deceased Subbaraya Gounder and after his demise, she along with her sister and brother inherited the subject property. The total extent of the property admeasuring 33 acres and 15 cents, in which all the legal heirs had sold out to an extent of 7.5 acres to the third parties. Subsequently, they sold out to an extent of 2.06-1/4 acres and therefore, the remaining extent of the property is available to an extent of 25.87-3/4 acres alone. The defacto complainant's brother formed a Trust, in which the petitioner was appointed as one of the trustees. That apart, he had full acquaintance with the said Arjunan and utilizing the said circumstances, he created the agreement for sale, dated 16.04.2007 by using a non-judicial stamp paper bearing serial No.17AA888511, but the subsequent enquiry revealed that the said non-judicial stamp paper was released from the District Treasury, Karur to the Sub Treasury, Kulithalai only on 06.09.2007. It was issued for sale only after 03.01.2008. Therefore, the said non-judicial stamp paper was purchased only in the year 2008 and created a false agreement for sale by placing an anti-date as 16.04.2007 and filling the said non-judicial stamp paper on the strength of the agreement for sale. The said fact was revealed only after receipt of information under the Right to Information Act. In fact, the application and the reply along with the document furnished under the Right to Information Act were marked as additional documents in the suit, while pending the appeal suit before this Court. Unfortunately, without considering the same, this Court dismissed the appeal suit and as such, the defacto complainant's brother filed the review petition in Rev. Petition (MD)No.138 of 2022 and it is reserved for orders. The petitioner is an influential person and he managed to quash the F.I.R before this Court. Though this Court quashed the F.I.R registered on the complaint lodged by her sister, now on the strength of the information received under the Right to Information Act, the present complaint has been lodged by the defacto complainant and it is under investigation. Hence, custodial interrogation of the petitioner is very much required and prayed for dismissal of the anticipatory bail petition.

9.Mr.S.Meenakshi Sundaram, learned Senior Counsel appearing on behalf of the defacto complainant/Arjunan in CrI.M.P(MD)No.3563 of 2023 submitted that the petitioner fabricated the agreement for sale, dated 16.04.2007 and filed a suit for specific performance. There were circumstances to say that the said agreement was a fabricated one on two folds:-

(i) The petitioner had full acquaintance with the family of the defacto complainant and other legal heirs. He had fully aware that the subject property was inherited by all three legal heirs. Therefore, without consent or knowledge from the other two legal heirs, the son alone could not have executed the agreement for sale

<https://www.mhc.gov.in/dis> of the petitioner herein.



(ii) The petitioner had knowledge about the signature of the said Arjunan and as such, he forged his signature in an anti-dated stamp paper and created the agreement for sale in his favour.

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10.Mr.S.Meenakshi Sundaram, learned Senior Counsel appearing on behalf of the defacto complainant/Arjunan in Crl.M.P (MD)No.3563 of 2023 further submitted that the subject property to an extent of 9.56 acres already sold out by all three legal heirs and the remaining property available only to an extent is 23.56 acres. Therefore, the intervenor could not have executed the said agreement for sale to an extent of 25.87-3/4 acres of land. Therefore, the custodial interrogation of the petitioner is very much required and he prayed for dismissal of the anticipatory bail petition.

11.Mr.S.Hammed Ismail, learned counsel appearing for the defacto complainant, viz., Mehala, who is the daughter of the said Arjunan, in Crl.M.P(MD)No.3938 of 2023 submitted that the petitioner is a very influential person and he managed to get interim order of protection even on the date of filing of the petition itself. The quashment of F.I.R in Crime No.1 of 2022 is a pre-mature one, since this Court already transferred the investigation and also extended the time for filing a final report. When it was being so, the petitioner filed a petition in Crl.O.P(MD)No.18425 of 2022 to quash the F.I.R and the same was quashed. No sufficient opportunities were given to the defacto complainant and other legal heirs, who inherited the suit property on the demise of their father. Receipt of the information under the Right to Information Act revealed that there is a *prima facie* case made out and as such, the present F.I.R has been registered as against the petitioner. Therefore, the custodial interrogation of the petitioner is very much required and if the petitioner is let out on anticipatory bail, he would tamper with the evidence.

12.Mr.R.Anand, learned counsel appearing for the defacto complainant/subsequent purchaser in Crl.M.P.No.3624 of 2023 submitted that the petitioner so far involved in eight previous cases and as such, he is a habitual offender. However, without even obtaining any anticipatory bail, he managed to escape from the clutches of all the F.I.Rs and in no case, he was arrested by the respective police personnel. In fact, the conduct of the petitioner in a previous proceeding has been strongly viewed by this Court in Crl.O.P(MD)Nos.6319 & 6680 of 2016. The petitioner, with sole intention to get the subsequent purchaser deprived of participation in the Assembly Election in the year 2016, has forwarded messages which carried false statements about the Court proceedings. When it was brought to the knowledge of this Court in the petitions filed by the petitioner in Crl.O.P(MD)Nos.6319 & 6680 of 2016 this Court directed the Assistant Commissioner of Police, Cyber Crime Cell,



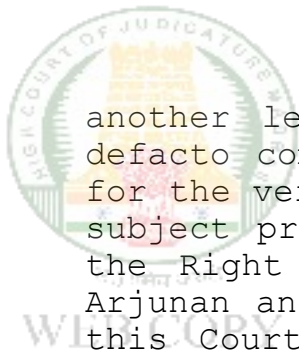
Madurai City to register the F.I.R as against the petitioners. Therefore, the petitioner did not approach this Court with clean hands and he is not entitled for anticipatory bail. After having been sold out part of the land admeasuring 9.56 acres out of 33.15 acres, the remaining land available only to an extent of 23.56 acres. Therefore, the said Arjunan could not have executed agreement for sale to an extent of 25.87-3/4 acres. Therefore, he prayed for dismissal of the anticipatory bail petition.

13.Mr.M.Karunanithi, learned counsel appearing for the defacto complainant/Pappathi in Crl.M.P(MD)No.3933 of 2023 submitted that earlier the defacto complainant lodged a complaint against the petitioner and the same has been registered in Crime No.1 of 2022 for the offences under Sections 420, 467, 471 and 506(i) of I.P.C on the file of the respondent Police. The petitioner filed a petition in Crl.O.P(MD)No.18425 of 2022 to quash the F.I.R in Crime No.1 of 2022 before this Court and this Court, by order dated 25.11.2022 allowed the petition. The property under challenge in the civil suit directly affects the rights of the petitioner. Therefore, he prayed for dismissal of the anticipatory bail petition.

14.Heard the learned counsel appearing on either side and perused the materials available on record.

15.The crux of the complaint is that the petitioner created a fake sale agreement, dated 16.04.2007 as if one of the legal heirs of the deceased Subbaraya Gounder, viz., Mr.Arjunan, had executed the said sale agreement in favour of the petitioner and agreed to sell the subject property to an extent of 25.87-3/4 acres. In fact, another legal heir of the deceased Subbaraya Gounder, viz., Pappathi, lodged a complaint and the same was registered in Crime No.1 of 2022 for the offences under Sections 420, 467, 471 and 506 (i) of I.P.C. While pending investigation, the petitioner filed a quash petition before this Court in Crl.O.P(MD)No.18425 of 2022 and this Court, by order dated 25.11.2022, quashed the F.I.R. Aggrieved by the same, the complainant filed re-call petition in Crl.M.P.No.44504 of 2022 and the same was also dismissed by order dated 01.02.2023.

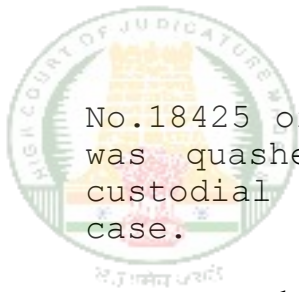
16.On the strength of the agreement for sale, dated 16.04.2007, the petitioner filed a suit as against the said Arjunan and two others in O.S.No.6 of 2009 on the file of the learned District Judge, Karur, for the relief of specific performance. The said suit was decreed in favour of the petitioner, by Judgment and Decree, dated 19.11.2011. Aggrieved by the same, one of the legal heir of the deceased Subbaraya Gounder, viz., Mr.Arjunan, filed an appeal in A.S(MD)No.17 of 2012 before this Court and the same was dismissed by Judgment and Decree, dated 04.02.2022. In order to review the said Judgment and Decree, the said Arjunan also filed a petition in Rev.Petition(MD)No.138 of 2022 before this Court. It was



another legal heir of the deceased Subbaraya Gounder, namely, the defacto complainant herein/Saraswathi, lodged the present complaint for the very same set of allegations and in respect of the very same subject property on the strength of the information received under the Right to Information Act. Pending the appeal suit, the said Arjunan and two others filed a petition in M.P(MD)No.2 of 2012 and this Court, by order, dated 29.04.2016, allowed the petition and directed the trial Court to adduce evidence. In fact, the information received under the Right to Information Act was permitted to mark as an additional document in the suit. After considering those documents, this Court dismissed the appeal suit and confirmed the Judgment and Decree passed by the trial Court for specific performance on the strength of the agreement for sale, dated 16.04.2007. Admittedly, it is a third round of litigation in respect of the very same property. It is true that there were complaints in respect of the very same property as against the petitioner.

17. Perusal of all the F.I.Rs revealed the very same set of allegations and very same subject prayer. On perusal of Ex.X7 revealed that the invoice received by the District Treasury, Karur for the stamp papers which were purchased by the Sub Treasury, Kulithalai. Also further revealed that the stamp paper Nos.AA880001 to AA900000 were purchased by the Sub Treasury, Kulithalai from the District Treasury. The Treasury Officer was examined as D.W.3 in the suit and he deposed that the stamp paper which was used for the agreement of sale and the stamp paper purchased by the Sub Treasury are one and the same. There was no possibility to sell the said stamp paper before 06.09.2007. Whereas, the specific stand taken by the first defendant Arjunan before the trial Court is that his signature was forged by the petitioner. In fact, the expert opinion obtained from the Forensic Laboratory also confirmed that the admitted signature by the said Arjunan and the signature found in the agreement for sale are one and the same. However, it is a matter for investigation in the present complaint.

18. Though the earlier F.I.R was quashed by this Court in Crl.O.P(MD)No.18425 of 2022, by order, dated 25.11.2022, the present F.I.R has been registered only on the strength of the information received under the Right to Information Act. Therefore, already all the records were seized by the civil Court as well as the respondent herein. That apart, the agreement for sale is dated 16.04.2007 and thereafter, the petitioner filed a suit as against the said Arjunan and two others in O.S.No.6 of 2009 on the file of the District Court, Karur, for the relief of specific performance and the same was also decreed in favour of the petitioner, by Judgment and Decree, dated 19.11.2011. Subsequently, the said Arjunan filed an appeal suit in A.S(MD)No.17 of 2012 on the file of this Court and the same was also dismissed, by order dated 04.02.2022, confirming the Judgment and Decree passed by the trial Court for specific performance. The petition filed by the petitioner in Crl.O.P(MD)



No.18425 of 2022 to quash the earlier F.I.R in Crime No.1, was quashed by this Court, dated 25.11.2022 and as such, the custodial interrogation of the petitioner does not require in this case.

19.Considering the above facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner, with certain conditions:

20.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate, Special Court for Land Grabbing Cases, Karur, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or 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 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 petitioner shall report before the respondent Police, daily at 10.30 a.m., for a period of four weeks and thereafter as and when required for interrogation.

[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.

[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.

sd/-

10/03/2023

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

ps

<https://www.mhc.tn.gov.in/judis>



TO

1. THE JUDICIAL MAGISTRATE,
SPECIAL COURT FOR LAND GRABBING CASES, KARUR.

2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KARUR.

3. THE INSPECTOR OF POLICE,
ANTI-LAND GRABBING SPECIAL CELL,
KARUR DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-3998[I] dated 10/03/2023)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-4025[I] dated
13/03/2023)

+5 CC to M/s.HAMEED ISMAIL, Advocate (SR-4124[I] dated 14/03/2023)

ORDER

IN

CRL OP(MD) No.3605 of 2023

Date :10/03/2023

RK/BUC/SAR-2 (16/03/2023) 10P/12C