



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 22/08/2023

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD). No.12052 of 2023

and

CrI.M.P(MD) No.9563 of 2023

1.Thiyagarajan

2.Anju

3.Amsavalli

4.Gokul

5.Ravichandran

6.Sekar

... Petitioners/ Accused Nos.1 to 6

Vs

The State, through
The Inspector of Police,
Kumbakonam East Police Station,
Kumbakonam, Thanjavur District.
(Crime No.358 of 2023).

... Respondent/ Complainant

For Petitioner : Mr.Manoj Kumar.S,
Advocate.

For Respondent : Mr.R.Suresh Kumar,
Government Advocate (CrI.Side)

For Intervenor : Mr.N.Dilip Kumar, Advocate



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

PRAYER :-

For Anticipatory Bail in Crime No.358 of 2023 on the file of the Respondent Police

ORDER : The Court made the following order :-

The petitioner/Accused Nos.1 to 6, apprehending arrest at the hands of the respondent Police for the alleged offence punishable under Sections 147, 148, 448, 294 (b) and 506(ii) I.P.C, in Crime No.358 of 2023 on the file of the respondent Police, seeks anticipatory bail.

2. The case of the prosecution is that there is civil dispute regarding the property situated at Melakaveri, Kumbakonam between the defacto complainant and the petitioners. Further, the suit has been filed by the defacto complainant in O.S.No.309 of 1987 on the file of the Principal District Munsif, Kumbakonam was decreed. Now E.P.No.62 of 2019 is pending. Further, the petitioners have trespassed into the above said property and attacked the defacto complainant with dire consequences. Hence, this complaint.

3. The learned counsel for the petitioner submitted that the petitioners are innocent and are no way connected in this case. There is no such occurrence happened as alleged by the prosecution.



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4. On perusal of entire records, came to know that the property was delivered to the defacto complainant and he has taken possession. Later only the present occurrence said to have taken place. Over which, the First Information Report has been registered. So, the petitioner was directed to file an undertaking affidavit stating that they will abide the civil Court decree. But instead of filing the same, he has filed affidavit stating that they will not make any trouble to the defacto complainant. The specific undertaking is not made, so that this matter has been listed today.

5. The respondent Police was directed to make a spot visit. Photographs have been taken and produced before this Court.

6. According to the defacto complainant, the above said property is occupied by these petitioners, after the delivery effected. Inspite of the above said delivery, the petitioners have not complied the above said order.

6. The learned counsel for the petitioners would submit that still E.P. proceedings are still pending before the concerned trial Court and delivery has not been effected.

7. The photographs shows that in a portion of the property, the petitioners are in occupation. When he was already suffered delivery of possession at the hands of the trial Court, the contention that only a portion of property is delivered cannot be taken into account by this Court. The petitioner has to approach the concerned trial



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Court for redressing their grievances. But after delivery is taken, squatting on the property will amount to clear illegality. Even affidavit is ordered to be filed, which is not taken in the right way by the petitioner. They are insisting that their possession must be protected. But such sort of contentions cannot be raised before this Court. They have to workout their remedy only before the concerned trial Court, where the above said E.P.proceedings are pending. When illegality has been committed by the petitioners even on the face of records, the petitioners are not entitled for any discretionary relief. Hence, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed.

sd/-

22/08/2023

/ TRUE COPY /

/09/2023

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

INDU

TO

1 THE JUDICIAL MAGISTRATE NO.I,
KUMBAKONAM, THANJAVUR DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.

3 THE INSPECTOR OF POLICE
KUMBAKONAM EAST POLICE STATION,
KUMBAKONAM,
THANJAVUR DISTRICT



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

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-12618[I] dated 22/08/2023)

ORDER
IN
CRL OP(MD) No.12052 of 2023
and
Crl.M.P(MD) No.9563 of 2023
Date :22/08/2023

SS/VRS/15/09/2023/5P/6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023