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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 01/08/2023

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP(MD)Nos.13313 and 13457 of 2023

(1).Crl.OP(MD)No.13313 of 2023:-

Ramkumar : Petitioner/ Accused Rank not Known

Vs.

State Rep. by
The Inspector of Police,
Thillai Nagar Police Station,
Trichy City,
(In Crime No.1336 of 2023)

: Respondent/ Complainant

Javeed Hussain

: Petitioner/Intervenor
in Crl MP(MD)No.10758 of 2023

For Petitioners : Mr.B.Jameelarasu, Advocate

For Respondent : Mr.S.MANIKANDAN,
Government Advocate(Crl.side)

For Intervenor : Mr.S.M.A.Jinnah, Advocate

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

PRAYER:- For Anticipatory Bail in Crime No.1336 of 2023 on the file of the Respondent Police.



(2).Crl.OP(MD)No.13457 of 2023:-

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N.Rathana Prakash

: Petitioner/ A2

Vs.

The Inspector of Police,
Thillai Nagar Police Station,
Trichy City,
(In Crime No.1336 of 2023)

: Respondent/ Complainant

Javeed Hussain

: Petitioner/ Intervenor
in Crl MP(MD)No.10764 of 2023

For Petitioners : Mr.K.R.Kishore Ram, Advocate

For Respondent : Mr.S.MANIKANDAN,
Government Advocate(Crl.side)

For Intervenor : Mr.S.M.A.Jinnah, Advocate

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

PRAYER:- For Anticipatory Bail in Crime No.1336 of 2023 on the file of the Respondent Police.

COMMON ORDER: The Court made the following order:-

The petitioners, who are arrayed as accused apprehend arrest at the hands of the respondent police for the offences punishable under sections 147, 295, 297, 447 and 427 IPC, in Crime No.1336 of 2023 on the file of the respondent police, seek anticipatory bail.



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complaint stating that near Thenur Farmers Market area, the properties belongs to Wakf aged about several hundred years namely Anarbargah Darga and Kabardasthan are situated. It is also used as burial ground. The property was originally handed to the Wakf Board in GS No.543. On 15/03/2023 at about 04.00 am in the morning, the accused by name I.P.Ramkumar, Vincent, Adaikalaraj, Pasupathi, Silambarasan and V.G.Nagarajan, Power Agent of Ramprakash, Rathinaprakash at the instigation of one Suresh and others, caused damage and destroyed the above said Kabardasthan. Similar occurrence was also taken place. on 01/01/2023 at midnight. In respect of the above said occurrence, WA(MD)No.1418 of 2022 was filed before this court, which ended in their favour. On the basis of the above said occurrence, a case in Crime No.1336 of 2022 was registered for the offences stated above.

3. Seeking anticipatory bail, Ramkumar and N.Rathna Prakash are before this court by way of these petitions. Intervenor also filed intervening petition.

4. The learned counsel appearing for the petitioner in CrI.OP(MD)No.13313 of 2013 would submit that the property belongs to this petitioner by way of purchase.

On several occasions, he approached the respondent police, either for granting police protection or seeking action against the de-facto complainant party.



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5. Similarly, the learned counsel for the petitioner in CrI.OP(MD)No.13457 of 2023 would submit that the property was already sold by him as a Power Agent of the owner. According to him, absolutely, this petitioner is not involved in the alleged occurrence. He would also refer the sale deed, dated 02/07/2021. We will go back to the original documents after sometime.

6. The entire CD file has been called for and perused.

7. Perusal of the CD file shows that some of the accused persons filed complaint, on 03/01/2023 against the de-facto complainant and others. That was enquired in CSR No.1 of 2023. In the complaint, it has been stated that some persons, who are unconnected with Ward-Y, Block-15 claiming right over the property as belongs to Wakf, trespassed into the same and illegally connected with electricity post. In the complaint, this petitioner and others stated that right from 1981, the property belongs to them and having documents. Some of the persons belongs to Muslim religion claim that it belongs to Wakf. Before the Revenue Divisional Officer, no proper document was produced by the above said persons. On the basis of the complaint given by them before the Commissioner, on 26/12/2022, he was granted with police

protection. On 01/01/2023, trouble was made by the religious people. Along with the



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complaint, they have also produced the revenue records, which according to them, standing in their names. Enquiry was undertaken and during the course of enquiry, it was found that in respect of the issue between the parties, O.S No.7 of 2012 and I.A No.332 of 2021 is pending before the Wakf Tribunal and a Writ Petition in WP(MD) No.15353 of 2020 is also pending. Both were advised to work out their remedy in the pending suit and proceedings itself.

8. But later, on 01/01/2023, trouble again arose between them. Police team went to the place of occurrence and advised them to abide by the court orders and asked them not to make any alteration or work in that place. On that account, the above said CSR was closed.

9. Similarly, again complaint was also given by the de-facto complainant party, wherein it has been stated that the property has been demolished by the accused persons. That complaint was also closed. Subsequent to that only, the present occurrence has taken place, on 15/07/2023.

10. No doubt that with regard to the title over the property, dispute exists between them. Both sides claim rival claim over the property. In respect of the above said, a matter is also pending before the Wakk Tribunal. Pending all these matters,



and in spite of repeated advise given by the respondent police, it appears that the present occurrence said to have been taken place.

11.The learned Additional Public Prosecutor has also produced documents for the damage caused to the property. It is seen that in the early hours, the above said damage was made.

12.The learned Additional Public Prosecutor would further submit that on coming to know about the occurrence, the police team went to the occurrence spot and before that, demolition was completed. So according to him, because of this issue, religious tension also exists and police picketing has also been arranged. So during the course of investigation, *prima facie* case has been found out and some of the accused are also absconding.

13.So *prima facie*, it is seen that damage has been caused to Kabardasthan. The petitioners ought to have work out their remedy through civil process. In- stead of doing that, they have taken the law in their own hands and caused extensive damage. This offence of this nature should not be taken lightly.



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14. The learned counsel appearing for the petitioner in CrI.OP(MD)No.13313 of 2023 would rely upon the communication sent by the Tashildar, Trichy (West) stating that the property has registered in the name of V.G.Vaithanathan, V.G.Nagarajan, V.G.Ramachandran, Ramkumar, Vincent Adaikalaraj as per SLR. So with regard to the sale deed executed by the petitioner in CrI.OP(MD)No.13457 of 2023 is concerned, it is a matter for consideration by the competent civil form. So, this is not a fittest case to exercise the discretionary power in favour of the petitioners.

15. Considering the gravity of the damage alledgedly caused to the Kabarasthan, which is aged about more than 100 years, both the criminal original petitions are **dismissed.**

sd/-
01/08/2023

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/08/2023

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

ER
TO

1 THE INSPECTOR OF POLICE
THILLAINAGAR POLICE STATION,
TRICHY CITY.



8

2nd THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) Nos.13313 and 13457 of 2023
Date :01/08/2023

SS/DD/08/08/2023/8P/3C

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