



Crl.OP(MD)No.15288 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date of Reserved : 27/09/2023

Date of Pronounced : 06/10/2023

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP(MD)No.15288 of 2023

1.Helan Vinifred

2.David

: Petitioners/ Accused Nos. 1 & 2

Vs.

State through

**The Inspector of Police,
Ramjeenagar Police Station,
Trichy District.**

(In Crime No.139 of 2023)

: Respondent/Complainant

For Petitioners : Mr.R.Alagumani,Advocate

**For Respondent : Mr.R.Suresh Kumar
Government Advocate (Criminal side)**

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

PRAYER:- For Anticipatory Bail in Crime No.139 of 2023 on the file of the respondent police.

ORDER: The Court made the following order:-

The petitioners, who are arrayed as A1 and A2 apprehend arrest at the hands



Crl.OP(MD)No.15288 of 2023

of the respondent police for the offence punishable under section 379 IPC, in Crime No.139 of 2023 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution in brief:-

The de-facto complainant lodged a complaint stating that he has purchased the property situated in Survey Nos.86/1, 86/3, 86/4 and 85/6 from the original owner and put up a factory shed. Later he sold a portion of the vacant land to one Sugumaran, on 05/08/2010. At that time, the shed was not dismantled. The above said Sugumaran availed Bank loan for the purpose of running factory and he was also doing contraction work with BHEL. Due to some illegal activity of the Branch Manager, the business ran into losses. The Bank by mistake auctioned 1.5 acres of land. Against which, he filed a suit in O.S No.1032 of 2022 and obtained interim injunction. On 13/12/2022, one David along with his rowdy elements trespassed into the properties and started dismantling and took away the machineries. Over which, a complaint was given to Ramjeenagar Police station. An undertaking was given by the above said persons in the police station. Again, on 17/07/2023, the accused persons trespassed into the property, removed the shed and machineries. Over which, the above said case was registered in Crime No.139 of 2023 for the offences stated above.

3.Seeking anticipatory bail, this petition has been filed by the petitioners stating

that the de-facto complainant purchased 1.5 acres of land in Survey No.86/4 from

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



Crl.OP(MD)No.15288 of 2023

one Krishnamoorthy; Remaining extent of 25 cents in the above said land was retained by Krishnamoorthy; The de-facto complainant mortgaged the property with Syndicate Bank; Because of the non-payment of the loan amount, the Bank took steps and the property was auctioned and A1 purchased the above said property measuring about 1.50 acres; The above said Krishnamoorthy filed a suit for permanent injunction in O.S No.1032 of 2022 before the Sub Court, Trichy; In the above said suit, Krishnamoorthy stated that he has retained 25 cents in Survey No.86/4 for the purpose of his own use; Even in the above said suit, he did not make any mention about the shed and other things.

4.Heard both sides.

5.The learned counsel appearing for the petitioners would submit that even as per the purchase document, the availability of the shed and machineries are not mentioned in the document. So, according to the petitioners, what was purchased by the de-facto complainant did not contain any shed or machineries. Even at the time of mortgage, it was not mentioned.

6.Already spot visit was also made by the respondent herein to inform the court about the physical features. In pursuance of the direction, the respondent visited the disputed property along with the then Village Administrative Officer. In the report, it

has been stated that they visited the property, on 21/09/2023. Around 1.5 acres of



Crl.OP(MD)No.15288 of 2023

land, fencing was made. The basement measuring about 60' x 40' x 2 feet height was available. Traces were found for the removal of the shed. The above said machineries were found in the nearby place.

7. Reading of the above said report, it is prima facie established on the side of the petitioners that the shed was removed and the machineries have also been replaced. But this petition has been filed stating that no shed was available in that place on the date of purchase. So, on that sole ground, the petitioners are not entitled for the discretionary relief.

8. In the result, this criminal original petition is dismissed.

sd/-
06/10/2023

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/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

ER
TO

1 THE INSPECTOR OF POLICE
RAMJEENAGAR POLICE STATION,
TRICHY DISTRICT.



Crl.OP(MD)No.15288 of 2023

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

ORDER
IN
CRL OP(MD) No.15288 of 2023
Date :06/10/2023

PKP/DD/SAR- /17.10.2023/ 5P/3C

Madurai Bench of Madras High Court is issuing certified
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