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Crl.O.P.(MD)Nos.15611, 15652 and 15662 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 26/09/2023

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.OP(MD)Nos.15611,15652 and 15662 of 2023

(1)Crl.OP(MD)No.15611 of 2023:-

1.C.Santhi
2.K.Chandrasekar
3.C.Siddharth

: Petitioners/A1 to A3

Vs.

State through
The Inspector of Police,
Kodaikanal Police Station,
Dindigul District.

(In Crime No.250 of 2023) : Respondent/Complainant

For Petitioners : Mr.N.Anantha Padmanabhan
Senior counsel for
M/s.Muthukamatchi.V

For Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

For Intervenor/
M.K.Gopi : Mr.Isaac Mohanlal
Senior counsel
for Mr.T.Cibi Chakraborty

For Intervenor/
Lizamma Urmese : Mr.AL.Ganthimathi
Senior counsel
for Mr.C.Mahadevan



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(2)Crl.OP(MD)No.15652 of 2023:-

1.Mohamed Mydeen
2.Ragavendran : Petitioners/A10 to A11

Vs.

The State rep by
The Inspector of Police,
Kodaikanal Police Station,
Dindigul District.
(In Crime No.250 of 2023) : Respondent/Complainant

For Petitioners : Mr.M.Ajmal Khan
Senior counsel for
M/s.Ajmal Associates

For Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

For Intervenor/
M.K.Gopi : Mr.Isaac Mohanlal
Senior counsel
for Mr.T.Cibi Chakraborty

For Intervenor/
N.Ganesan : Mr.R.Shankar Ganesh
for Mr.Veerachamy.M

For Intervenor/
Lizamma Urmese : Mr.AL.Ganthimathi
Senior counsel
for Mr.C.Mahadevan

(3)Crl.OP(MD)No.15662 of 2023:-

1.Maruthupandi @ Maruthapandian
2.Gilbert @ Saleth Gilbert Raj : Petitioners/A6 and A7

Vs.

The Sub-Inspector of Police,
Kodaikanal Police Station,
Dindigul District.
(In Crime No.250 of 2023) : Respondent/Complainant



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Crl.O.P.(MD)Nos.15611, 15652 and 15662 of 2023

For Petitioners : Mr.S.C.Herold Singh
For Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor
For Intervenor/
M.K.Gopi : Mr.Isaac Mohanlal
Senior counsel
for Mr.T.Cibi Chakraborty
For Intervenor/
Lizamma Urmese : Mr.AL.Ganthimathi
Senior counsel
for Mr.C.Mahadevan

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

COMMON PRAYER:-For Anticipatory Bail in Crime No.250 of 2023 on the file of the Respondent Police.

COMMON ORDER: The Court made the following order:-

The petitioners, who are arrayed as A1 to A3, A6 & A7 and A10 & A11 apprehend arrest at the hands of the respondent police for the offences punishable under sections 120-B, 419, 420, 468, 471 and 196 IPC, in Crime No.250 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 under section 156(3) Cr.P.C before the Judicial Magistrate No.II, Kodaikanal stating that one Lizamma Urmese



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purchased the property in 1968. On 22/06/1972, she sold the same in favour of one Chandrasekaran and Shankar. Later Shankar entered into a sale agreement with Lizamma Urmese. The sale agreement was existing, dispute arose between the above said Lizamma Urmese and Chandrasekaran, over which, a suit in O.S No.373 of 1992 was pending on the file of the Sub Court, Dindigul. Similarly, Shankar filed a suit in O.S No.438 of 1992 and a common judgment was passed, on 27/08/1996. Shankar died, on 26/03/2012 leaving behind his wife. The accused persons in order to grab the property made a false publication stating that the document No.470 of 1972 was missing. A complaint was given in Kodaikanal Police Station. The above said publication was made by one Sudhakar. By taking advantage of the similarity of the name Shankar, executed a sale deed in favour of Santhi, on 06/01/2012 in document No.470 of 1972. The father of Santhi's name was mentioned as Shankar. But in the sale deed, the father name is mentioned as 'Chandrasekaran'. Address also differs. Not only the Document Writers, but also the witnesses have indulged in conspiracy. Similarly, the above said Sudhakar is also colluding with other accused for the purpose of committing the above said forgery. Similarly, the father name of Chandrasekaran is also wrongly mentioned. The above said Chandrasekaran also executed a



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sale deed in favour of his wife, on 23/06/1972. The occupant of the property namely Vignesh filed a complaint before the Kodaikanal Police Station in Crime No.336 of 2012. That was referred as 'Mistake of fact'. Since, it was found that during the course of enquiry, Chandrasekaran was died at the age of 14, O.S No.1378 of 2013 was filed by Shankar taking advantage of the similarity of the name. So also obtained ex-parte decree. The above said impersonation was also known to the above said Advocate namely Sudhakar and Mohammed Mydeen. By impersonating and by creating false documents, decree has also obtained. Seeking action against the accused persons, all those persons the above said complaint has been filed.

3.From the facts narrated above, by taking advantage of the similarity of the name, the above said document appears to have been created. Originally, the property belongs to one Chandrasekaran and Shankar. Later the above said Chandrasekaran and Shankar executed a sale agreement in favour of Lizamma Urmese. Lizamma Urmese filed a suit in O.S No.19 of 1988 before the Sub Court, Dindigul. Similarly, Shankar also filed a suit in O.S No.206 of 1989 before the very same Court seeking partition of his half share in the above said joint



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purchase of 97.5 cents. A common order was pronounced, by which, the suit for specific performance namely O.S No.373 of 1992 filed by Lizamma Urmese was transferred to the Sub Court, Dindigul, but O.S No.429 of 1992 was allowed. So, Lizamma Urmese filed appeal in AS No.229 of 1997 and transferred AS No.1132 of 2002 before the Principal Seat. In the above said proceedings, Chandrasekaran remained *ex-parte*. In the meantime, Shankar died. Then the legal-heirs of Shankar preferred appeal before the Hon'ble Supreme Court in Appeal No.7819/2013 and the matter was referred to Mediation and settlement was arrived, by which, Lizamma Urmese agreed to settle 13.5 cents in favour of Shankar. So, the Principal Jayanthi and Lizamma Urmese are in joint possession of the property. In the meantime, Shankar and Chandrasekaran knowing the internal dispute between the Lizamma Urmese and Late husband of the Principal, hatched conspiracy to grab the property by using the sameness of the name in document No.470 of 1972. In pursuance of the above said conspiracy, they preferred a complaint stating that the document No.470 of 1972 is missing.

4.On that basis, non-traceable certificate was obtained. Paper publication was issued through an Advocate Sudhakar. On the strength of the above said



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certificate with the connivance of the other parties, Shankar executed a settlement deed in favour of A1, on 06/10/2012. Similarly, A2 namely Chandrasekaran also executed another settlement deed for the remaining portion of the property in favour of Santhi, on 01/04/2013. The above said fraud is evident on perusal of the above said document, dated 22/06/1972. Because on the above said date, A1 was only six years old and A2 was 14 years. There was no relationship between A1 and A2 at that time. This is the history of the above said issue as narrated by the intervenor.

5. So apparently, it is seen that it is a fraudulent document. In the light of the above said factual position, now let us go to the independent role played by the petitioners herein.

6. The petitioners in Crl.OP(MD)No.15611 of 2023 are A1-C.Shanthi, A2-Chadrasekar and A2 Siddhar. It is represented by the learned Senior counsel appearing for the petitioners that A1 was arrested and so far as A2 is concerned, he is not-pressed this petition. So, this petition is **dismissed as infructuous against first petitioner/A1**. In respect of the 2nd petitioner/A2, this petition is dismissed as not pressed.



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7. So far as the 3rd petitioner/A3 is concerned, it is contended by the learned Senior Counsel to the effect that only on the basis of the action taken by A2 namely Chandrasekar, who is the father, he became the beneficiary of the above said document. Absolutely, he had no knowledge about the earlier transaction for the misdeed committed by A1 and A2. A3 should not be put into penalty.

8. But I am not in agreement with this line of this argument. Because the age of A3 was about 32, he ought to have known the history of the family as well as the property. So, the contention that A1 and A2 are the root cause for the issue, for which, he has penalized, cannot be accepted. Being the beneficiary of the large scale conspiracy and criminal activity, this court is not inclined to grant anticipatory to A3. So, Accordingly, this petition is dismissed as against the 3rd petitioner/A3.

9. Crl.OP (MD) No.15652 of 2023:-

So far as the petitioners in this case is concerned, they were arrayed as A10 and A11 and they are Advocates on record for the co-accused. When the matter was heard, some sort of allegation was made against the Presiding



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Officer. But I do not want to go into those aspects now and the High Court shall take care of the allegation. Any observation if made by this Court, will have unnecessary impact upon further course of action. More-over, completely the allegation against the Presiding Officer is alien to this issue now.

10.I am also not going to discuss about the issue between the Bar Members, who have come on record now and the Presiding Officer.

11.The learned counsel appearing for the Intervenor has submitted that unnecessary allegation has been made not only against the Presiding Officer, but also against the Bar Members of Kodaikanal. If this sort of allegations are permitted to be raised and discussed, then the independence of the Bar and the relation will also be in trouble.

12.Even though, the learned Senior counsel appearing for the petitioners tried to raise the issue, the learned Senior counsel appearing for the Intervenor would submit that absolutely, it is unnecessary allegation and that should not be permitted to be raised.



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13.This court was of the opinion that the above said issue should not be discussed. So with this single sentence, I am restraining from making any discussion over the issue. So, *suo motu*, the averments made in para 10 and 11 in this petition, are ordered to be struck off from the pleadings and it should not be form part of the record.

14.So, considering the fact that these petitioners only acting on behalf of their clients, it is too remote a point to involve them in the theory of conspiracy. To what extent, they involved in the matter can also be investigated. But absolutely, when they rendering their professional advise, without any *prima facie* material, they should not be penalized. On that account, granting anticipatory bail to the petitioners is not objected by the Intervenor. So, the petitioners are entitled for anticipatory bail.

15.So far as the petitioners/A6 and A7 in ***Crl.OP (MD)No.15662 of 2023*** are concerned, it has been stated that they were Document-Writers by profession. Based upon the document placed before them only, they prepared the disputed document. They did not even know the executors personally.



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16. But as mentioned above, it is a clear case of impersonation. The petitioners, being the Document-Writers cannot disown their responsibility by simply saying that they prepared the document on the basis of the records produced. They ought to have verified the identity of the executors. Without perusing the proper documents, the above said document has been prepared. To what extent, they conspired with the other accused persons is a matter for investigation. The manner, in which the above said document alleged to have been created, dis-entitles the petitioners from claiming the discretionary relief. So, these petitioners are not entitled for anticipatory bail.

17. In the result,

(1) Crl.OP (MD) No. **15611** of **2023** is dismissed as infructuous as against the first petitioner/A1 and against the second petitioner/A2 dismissed as not pressed. As against the third petitioner/A3, this petition is dismissed.

(2) Crl.OP (MD) No. **15652** of **2023** is allowed with certain conditions. Accordingly, **the petitioners/A10 and A11, who are Advocates** are ordered to be released on bail



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in the event of arrest or on their appearance before the learned **Judicial Magistrate No.III, Dindigul** and on their executing 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 learned Judicial Magistrate concerned and on further condition that the petitioners/A10 and A11 shall appear before the respondent police as and when required. The petitioners/A10 and A11 shall comply with the condition stipulated under **Section 438 Cr.P.C.** scrupulously. The petitioners shall appear before the concerned Magistrate within a period of 15 days from the date on which the order is made ready, failing which, the petition for anticipatory bail will stand dismissed.

3.Crl.OP(MD)No.15662 of 2023 filed by the petitioners/A6 and A7, who are the Document Writers **is dismissed.**

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Index:Yes/No
Internet:Yes/No
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Note to the Registry:-

The Registry is directed to strike off the para 10 and 11 of the petition in Crl.OP(MD)No.15652 of 2023.



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To,

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- 1.The Inspector of Police,
Kodaikanal Police Station,
Dindigul District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

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