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Crl.O.P.(MD)No.16669 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 26/09/2023

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP (MD)No.16669 of 2023

1.Maideenpathu
2.Nijamudeen

: Petitioners/A1 and A2

Vs.

State through
The Inspector of Police,
Thiruchuli Police Station,
Thiruchuli Taluk,
Virudhunagar District.
(Crime No.188 of 2023)

: Respondent/Complainant

For Petitioners : Mr.M.Thirunavukkarasu

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.188 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 of the respondent police
for the offences punishable under sections 379 and 427
IPC, in Crime No.188 of 2023 on the file of the
respondent police, seek anticipatory bail.



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2.The case of the prosecution is that the de-facto complainant is the Block Development Officer attached to Thiruchuli Panchayat Union. He has stated in the complaint that Survey No.11/1 situated at Karendal village, Pallimadam Panchayat is the Government poramboke. In that property, a overhead tank was constructed in 1980. Women's Health Centre was constructed in 2002-2003. In 2017, Vermi-compost production Unit was also constructed. The first petitioner stating that the above said constructions were made in his property, filed a suit in O.S No.317 of 2021 on the file of the District Munsif-cum-Judicial Magistrate, Thiruchuli. Pending the above said suit, On 26/08/2023, A1 along with his son-in-law Nijamudeen namely A2 demolished the above said construction. Upon which, a case in Crime No.188 of 2023 was registered for the offences stated above.

3.Seeking anticipatory bail, this petition has been filed by the petitioners stating that the first petitioner is having no right over the property in survey No.11/1; The property situated in Survey No.11/2 measuring about 0.23 Ares belongs to the first petitioner; It was sub-divided as 11/2A and 11/2B; Patta for Survey Nos.11/2A and 11/2B was issued in favour



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of the first petitioner; They did not make any demolition in Survey No.11/1; The second petitioner was clearing the bushes in Survey No.11/2A; During the above said cleaning activity, the Panchayat President made trouble as if the petitioners are making demolition in Survey No.11/1; Regarding Survey No.11/1, the first petitioner is not having any right; Suit is filed only in respect of the property situated in Survey Nos.11/2A and 11/2B and they never made any demolition.

4.Heard both sides.

5.The learned counsel appearing for the petitioners would submit that the above said constructions were made in the property of the first petitioner without his consent and knowledge and he removed the construction and levelled the ground. To show the same, he has produced the photographs.

6.When this argument was raised before me, I put a specific question to him that having permitted the Government to put up the above said constructions in his property, how can he remove or demolish the same without recourse to proper legal process. But for which, no explanation has been given by the petitioners. They



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simply stated that the above said constructions were made in the property of the first petitioner without his consent and knowledge.

7.*Prima facie*, it appears that the properties have been damaged, put up by the Government. It is public money. The petitioners ought to have raised objection at the time of putting up the constructions. But knowing fully well, he committed another mistake by demolishing the same in a high-handed manner. The explanation that the above said constructions put up only in the property of the first petitioner cannot be taken advantage. The manner, in which the high handed demolition has been made, dis-entitles the petitioners from claiming the discretionary relief.

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

Index:Yes/No
Internet:Yes/No
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To,

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- 1.The Inspector of Police,
Thiruchuli Police Station,
Virudhunagar 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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