



Crl.O.P.No.10986 of 2024

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K. KUMARESH BABU, J.

The petitioners who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 143, 294(b), 447 and 506(ii) of IPC in Crime No.115 of 2024, seek anticipatory bail.

2.The case of the petitioners is that three civil suits are pending before the learned District Munsif, Coimbatore, with regard to the property in which the defacto complainant had alleged encroachment by the petitioners. Originally, the petitioners had lodged a complaint which had been registered by the respondent police in Crime No.01 of 2024. The petitioners had preferred Crl.O.P.No.7534 of 2024 along with Crl.M.P.No.5477 of 2024 before this Court and this Court taking note of the pendency of three civil suits between the parties, had directed stay of investigation in Crime No.01 of 2024 by an order dated 27.03.2024. On 26.04.2024, another complaint had been preferred by the defacto complainant in Crime No.115 of 2024 alleging that the petitioners had



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tampered the records and obtained electricity service connection and had also threatened EB officials from performing their duty.

3.The learned counsel for the defacto complainant would submit that the earlier complaint and the present complaint are totally different and the proceedings in the earlier complaint cannot be a bar and thereby, the defacto complainant had filed a fresh complaint.

4.Heard the learned counsel on either side and perused the materials available on record.

5.The admitted fact is that the civil suits in O.S.Nos.2549 of 2015, 923 of 2016 and 611 of 2023 are pending between the parties before the District Munsif, Coimbatore, in respect of the suit property. When that being so, the contention of the defacto complainant is that his right to initiate criminal proceedings against the petitioners would be available to him. Such a right would be available to him only when there is a fresh cause of action and he cannot be allowed to perpetuate a criminal action by filing repeated complaints.

6.Further, the petitioners had also approached this Court in Crl.O.P.No.10391 of 2024 and by an order dated 26.04.2024, this Court



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had granted anticipatory bail to the petitioners. From the perusal of the above order, the facts on which Crime No.18 of 2024 came to be registered is similar to the facts on which Crime No.115 of 2024 had been registered. It is also to be noted that the present complaint had been taken on file based upon the complaint given by the defacto complainant on 26.04.2024 at 08.00 p.m., and this Court had passed the order granting bail to the petitioners on the same day. From the above, it could be seen that only after the grant of bail by this Court to the petitioners, the defacto complainant had preferred the present complaint on the very same set of allegations. The defacto complainant had originally filed the complaint on the same set of allegations before the City Crime Branch, Coimbatore and the present complaint has been made before the respondent Police. This conduct of the defacto complainant has to be deprecated.

7.Considering the above facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions.



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8. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned District Munsif cum Judicial Magistrate, Madukkarai, Coimbatore, on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the respondent police or the police officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

(b) the petitioners shall report before the respondent police station as and when required for interrogation.

(c) the petitioners shall not tamper with evidence or witness either during investigation or trial;



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(d)the petitioners shall not abscond either during investigation or trial;

(e) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in *P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]*; and;

(f)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC;

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