



Crl.O.P.Nos.27725, 27821, 27748 & 27773 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2024

CORAM

THE HON'BLE MR. JUSTICE **C.V.KARTHIKEYAN**

Crl.O.P.Nos.27725, 27821, 27748 & 27773 of 2023
and Crl.M.P.Nos.19537, 19535, 19539 & 19540 of 2023

Hemalatha W/o. Dhanasekaran

...Petitioner/Accused-2
in Crl.O.P.No.27725 of 2023

Rajasekar S/o. Dhanasekaran

...Petitioners/Accused-4
in Crl.O.P.No.27821 of 2023

Sekar S/o. Thiruvengadam

...Petitioners/Accused-3
in Crl.O.P.No.27748 of 2023

Thiyagarajan S/o. Thanupillai

...Petitioners/Accused-1
in Crl.O.P.No.27773 of 2023

Vs.

State by
The Assistant Commissioner of Police,
Team-17,
Central Crime Branch-1,
Vepery, Chennai.

(Crime No.138 of 2023)

...Respondent
in all Crl.O.Ps.

Common Prayer: Criminal Original Petitions filed under Section 439 of



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Cr.P.C. praying to enlarge the petitioners on bail in Crime No.138 of 2023 on the file of respondent police on such terms and conditions.

(In Crl.O.P.No.27725 of 2023)

For Petitioner : Mr.D.Alexis Sudhakar

For Respondent : Mr.L.Baskaran
Government Advocate (Crl. Side)

(In Crl.O.P.No.27821 of 2023)

For Petitioner : Mr.D.Alexis Sudhakar

For Respondent : Mr.L.Baskaran
Government Advocate (Crl. Side)

(In Crl.O.P.No.27748 of 2023)

For Petitioners : Mr.R.Thamarai Selvan

For Respondent : Mr.L.Baskaran
Government Advocate (Crl. Side)

(In Crl.O.P.No.27773 of 2023)

For Petitioner : Mr.R.Thamarai Selvan

For Respondent : Mr.L.Baskaran
Government Advocate (Crl. Side)

(In all Crl.O.P.Nos.)

For Intervenor : Mr.M.Vijayamehanathan

COMMON ORDER



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A1 has filed Crl.O.P.No.27773 of 2023, A2 has filed Crl.O.P.No.27725 of 2023, A3 has filed Crl.O.P.No.27748 of 2023 and A4 has filed Crl.O.P.No.27821 of 2023, all in Crime No.138 of 2023, registered by the respondent police for the offences punishable under Sections 465, 467, 468, 471 r/w 120B & 34 of IPC.

2.The issue had been taken up earlier by this Court and by an order dated 14.12.2023, this Court had granted interim bail to all the four petitioners with direction to participate during the survey of the disputed lands.

3.The Brief facts of the case are as follows:

“The entire issue surrounds a property at originally S.No.43, totally measuring 8.17 acres at Veeramamunivar Street, Perungudi, Chennai-600 096. This particular property originally belonged to one Balakrishna Pillai. He had died on 19.02.1979. Even prior to his death, with respect to portions of properties, Power of Attorney had been given. He had in that manner given Power of Attorney to a total extent of 3.91 acres to one Kareem.



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3.It is contended by the learned counsel for the 1st and 3rd accused who are both grandsons of Balakrishna Pillai, and A1 being the Power of Attorney agent of A3 that there were still remaining lands to which, as grandsons/surviving legal heirs, they can claim title and ownership. But the entire issue is with respect to the purchase by the defacto complainant from the Power of Attorney agent Kareem in the year 1978, to lands which measuring 2.72 acres.

4.It is the case of the defacto complainant as given in the complaint that he had put two separate buildings in that particular land. The said buildings were also leased out, more particularly to one individual who strangely called himself Maya Mohan. As the name signifies, the lease according to him was only an illusion and he refused to vacate on expiry of the lease. A2, the mother of A4, was originally working under the lessee, Maya Mohan. It is claimed that she came to know all the affairs about the business run by Maya Mohan including the fact that he was a lessee under the defacto complainant.



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5.Since the lease amounts were not paid, the defacto complainant had instituted judicial proceedings which finally culminated in an order in an Execution Petition directing vacant portions to be handed over. The Court Aameena had gone over to the said place and there, A2 had obstructed possession and claimed title to the said property on the basis of a sale deed in Doc.No.477 of 1966. This particular document does not relate to the property at all. It is only when she claimed title did the defacto complainant come to know that there was a rival claim to title and that the lessee has now claimed title over the property without any document and on the basis of forged document in Doc.No.477 of 1966. Thereafter, the complaint was lodged.

6.It is contended by the learned counsel for A2 and A4, who are mother and son that the defacto complainant claims right and title over a sub divided portion at S.No.43. Naturally, S.No.43/2c. It is however claimed that the 2nd petitioner is independently running a MSME industry and that the lands to which she possess are different. It however falls within the larger area of S.No.43.



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7.The case of the 1st and 3rd accused who are grand children of Balakrishna Pillai and therefore claim a right over title, is that the Power of Attorney originally granted to Kareem was not for the entire extent. It is also stated that the said Kareem, the Power of Attorney agent had sold only a portion of the lands to which he had been granted Power and on the death of Balakrishna Pillai the Power of Attorney automatically lapsed and therefore, the lands reverted back to the legal heirs and it is claimed that A1 and A3 are the legal heirs and therefore, they also claimed title. They had created a mortgage with respect to the said lands and that came to light during investigation. I am informed that subsequently the mortgage had been cancelled.”

4.On 14.12.2023, this Court had granted interim bail and directed to survey the lands in S.No.43 and also the sub-divided portions.

5.A status report has been filed on behalf of the respondent wherein it is stated as follows:

“9. It is further submitted that on complying with the direction, communication was sent to the Tahsildar Sholinganallur, Chennai-119, to obtain the related



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information. As per the direction of the Hon'ble High Court, Tr.Sirajudeen, the Surveyor, surveyed the subject property. Based on the survey, the Tahsildar sent a report vide Na.Ka.No.6893/2023/AA2 dated 12.01.2024. On perusal of the report, it is identified that in Survey No.43, the total extent is 8.1 acres, subdivided into "43/1A, 1B1, 1B2, 2A1, 2A2A1, 2A2A2, 2A2A3A, 2A2A4, 2A2A5, 2A2A6, 2B, 2A2B, 2A2C, 2A2D, 2C1, 2C2, 2C3, 2C4, 2C5, 2C6A1A, 2C6A1B, 2C6A2, 2C6B and 3". It is further revealed that A2 Hemalatha W/o. Dhanasekaran (Mother) and A4 Rajasekar S/o. Dhanasekaran (Son) illegally claimed the subject property and obtained a patta by fraudulent means, referencing fabricated document number 477/1966."

6.The learned counsel for the intervenor stated that A2 and A4, have obstructed execution of lawfully obtained Court decree and claimed title over the said lands. But the report of the Tahsildar dated 12.01.2024 referred above, has made it clear that A2 and A4 had obtained patta by fraudulent means. This is only observed by this Court and the facts will have to be proved during the course of trial. In order to provide an opportunity to all the parties during the course of trial, the interim bail



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already granted by this Court on 14.12.2023 is made absolute with certain conditions. I am informed all the petitioners had surrendered on 19.01.2024.

7. Accordingly, the petitioners are ordered to be released on bail on their executing 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 Metropolitan Magistrate CCB Cases and CBCID (Metro Cases), Egmore, and on further conditions that :-

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

[b] the petitioner in all the petitions shall report before the respondent police everyday at 10.30 a.m., till filing of charge sheet and thereafter, during the Court hearing dates.

[c] the petitioners shall not abscond either during investigation or trial.

[d] the petitioners shall not tamper with evidence or witness 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



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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].

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

8.The same sureties, which they had earlier produced while obtaining interim bail, may again be presented and may be directed to extend their bond till the completion of trial.

9.Connected Criminal Miscellaneous Petitions are closed.

31.01.2024

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C.V.KARTHIKEYAN. J.

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To

1. The Metropolitan Magistrate CCB and CBCID (Metro Cases) Egmore.
- 2.The Central Prison II, Puzhal, Chennai.
- 3.The Assistant Commissioner of Police,



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Team-17,
Central Crime Branch-1,
Vepery, Chennai.

4.The Public Prosecutor,
High Court of Madras.

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