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Crl.O.P.Nos.27884 & 29083 of 2023

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and Crl.M.P.No.140 of 2024

C.V.KARTHIKEYAN, J.

The petitioners/A1 & A4 seek anticipatory bail in Crime No.201 of 2023 registered by the respondent Police for the offences punishable under Sections 465, 468, 471 & 420 of IPC.

2. It is the case of the prosecution that the husband of the defacto complainant had died. Incidentally, he was the brother of A1. A2 and A3 are also close relatives.

3. It is stated that there was a property to which the husband of the defacto complainant was entitled to. It is also stated that A1, A2 and A3 had forged the death certificate of the husband and more particularly, the legal heirship certificate omitting to mention as legal heirs, the defacto complainant and her minor son. They claimed to be class II legal heirs of the deceased husband of the defacto complainant and had sold the property to A4.



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4. It is the contention of the learned counsel for A1, that the defacto complainant is the second wife of the deceased and also stated that she had left the marital house about twenty years back and therefore out of innocence, and not knowing about her presence on the date of obtaining the legal heirship certificate, they had obtained the said legal heir certificate. But, however, they can question the status of the wife of the defacto complainant, but they can never question the status of the minor child who is entitled the shares.

5. The learned counsel for A4 stated that he is an innocent purchaser without knowledge about the existence of the legal heirs of the deceased husband of the defacto complainant. It is the contention of the learned counsel that he is prepared to hand over the shares of the defacto complainant.

6. The learned counsel for the petitioner stated that there was a legal impediment, since a minor's share is involved and also stated that the Court can refer the issue to Mediation where the parties could examine all the issues.



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7. The learned Government Advocate(Crl.Side) pointed out that A1 to A3 are very close relatives to the husband of the defacto complainant and were aware of the marital status of the defacto complainant with the deceased, the own brother of A1 and omitting her and also his son had obtained the legal heirship certificate. It is also stated that during the course of investigation reports had been obtained from the Tashildar that the legal heirship certificate obtained and relied as a document for sale of the property to A4 was a forged document.

8. One of the facts stated by the learned counsel for the intervenor who is also present is that the A4 is a neighbour and had known about the family circumstances of not only A1 to A3 but also the defacto complainant and therefore disputed the contention that A4 is an innocent purchaser.

9. Taking note of all the arguments advanced, it is clear that A1 to A3 had deliberately omitted to include the defacto complainant and her minor son as legal heirs of the deceased. They had procured the legal heirship certificate reflecting them alone as legal heirs. They can be considered only as class II heirs. They can claim a share only if there are no



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class I heirs. Even if the status of the defacto complainant is to be examined, certainly her son as class I heir and as the son of the deceased, should not have been omitted in the legal heirship certificate. Procuring such a legal heirship certificate shows clearly intent to defraud and grab the property of the deceased. The question as to whether A4 is an innocent purchaser or is a speculator purchaser, can be tested only during the course of investigation, but as on date, the prosecution has made out a prima facie case for proceeding further with the investigation.

10. Taking all those factors into consideration and also the fact that offences under Section 465, 468, 471 and 420 IPC are also attracted, and element of forgery is involved. I am not inclined to refer the parties to mediation.

11. I am not inclined to grant bail to the petitioner. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

24.01.2024

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