



Crl.O.P.No.28971 of 2023

Crl.O.P.Nos.28971 & 28650 of 2023
and Crl.M.P.No.530 of 2024

C.V.KARTHIKEYAN, J.

A1 has filed Crl.O.P.No.28650 of 2023 A2 and A3 have filed Crl.O.P.No.28971 of 2023, both in Crime No.72 of 2023, registered by the respondent Police for the offences punishable under Sections 120(b), 419, 420, 465, 468 and 471 of IPC, seek anticipatory bail.

2.The lands at Athipattu Village, Ponneri Taluk in Thiruvallur District measuring in survey No.95/2, which originally measured totally 6.32 acres had flowed down from one Parvathiammal. One Subramani had purchased 1.04 acres out of 6.32 acres, in S.No.95/1 Parvathiammal retained 5.28 acres in S.No.95/2. Thereafter, the lands again devolved to one Nagammal, who had 2.17 acres in S.No.95/2. Out of this 2.17 acres, power of attorney was given to A1 for 0.88 cents. This area of 0.88 cents was sold by A1 to Zuari Cements, who is not an accused before this Court. In those documents A3 and A4 signed as witnesses. They incidentally happened to be the sons of Nagammal.



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3. There is an intervening application filed by one Ulaganathan.

There is some dispute over the status of said Ulaganathan. Two separate documents have been produced relating to him. The first one is a legal heirship certificate in which Ulaganathan is shown as the son of Natesan @ Natarajan whose father is Egan.

4. There is yet another documents namely the report of the Revenue Divisional Officer, in which it had been stated that the legal heirs of Natesan also included this Ulaganathan. But this Natesan is the son of Elumalai and not Egan as seen in the earlier legal heir certificate referred. This indicates that the status of every individuals has to be viewed and investigated and enquired into.

5. It is the contention of the learned counsel for the intervenor that the 0.88 cents which had been given as power of attorney to A1 and which had been subsequently sold to Zuari Cements, was not under the holding of Nagammal, particularly in S.No.95/2C1. But that is an issue, which will have to be decided on the basis of evidence.



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6. This statement is contested by the learned Senior Counsel for A1 who contended that within the family members of Nagammal, an Original Suit was instituted and the claim of the defacto complainant for declaration of title was negated, both in the Judgment and Decree of the Original Suit and in the Judgment and decree of the First Appeal. Later, when a Second Appeal was filed, over looking the two separate decrees which had been passed on the basis of evidence adduced, a compromise was effected, dividing the lands and it is on that compromise, the defacto complainant stakes rights over the lands.

7. It is contended by the learned Senior Counsel that the said compromise is a fraudulent compromise and it is also stated that it does not bind A1 who was appointed as power of attorney way back in the year 2011.

8. It is thus seen that all these issues will have to go through the process of trial.

9. This matter came up before this Court on earlier occasions and the facts herein had also been reduced by an order dated 06.02.2024.



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Thereafter, the matter again came up on 05.03.2024, wherein it had been stated that;

"2.The case of the prosecution is that one Parvathiammal owned 5.28 acres of land and she had sold 2.17 acres of land to one Nagammal. Nagammal had appointed the second accused as power of attorney agent for 0.88 cents of land. The second accused had sold 0.88 cents to a company. The said Company has not been stated to be an accused by the defacto complainant and the respondent have also not included the said company as accused in the FIR. In the particular sale deed executed by the second accused in favour of the said company, the accused Nos.3 and 4 had signed as witnesses. It is contended on behalf of the defacto complainant that Nagammal had already sold 2.17 acres of land and had then executed a power of attorney document. But Nagammal had died. Any implication of offence against Nagammal stands abated.

3.It is the contention of the second accused that the defacto complainant had filed a civil suit seeking declaration of title. The suit was dismissed. The first appeal was also dismissed. The claim for title was negatived, but possession was recognised and safeguarded. A second appeal was filed. Pending the Second Appeal, the defacto complainant who could be called the plaintiff and the defendant, who



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questioned the title of the defacto complainant entered into a compromise and divided the lands between themselves. It is therefore contented by the learned Senior Counsel that the said compromise is the Second Appeal is a collusive and a fraudulent compromise since the issue of title had been adjudicated by the trial Court and on the basis of the evidence, the claim for title by the defacto complainant was dismissed. The issue therefore is a compromise conferring title could be over ride a decree negating title. This is a issue which will have to be seriously examined.

10.It is made very clear that while examining the issue of grant of anticipatory bail, particularly with respect to a property whose title is clouded with a compromise decree which is alleged to be fraudulent and with a power of attorney document, which is alleged to have been executed for lands not owned by the principal and wherein the purchaser is not shown as an accused, the only factors would be, availability of the accused for interrogation and for participation in the judicial process and that they should not tamper the witnesses or hamper the investigation.



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11. Taking all these into consideration, I am confident that the petitioners herein would certainly co-operative during the course of investigation. This Court is inclined to grant anticipatory bail to the petitioner with certain conditions. 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 Judicial Magistrate-I, Poonamallee, Chennai**, in condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties 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 everyday at 10.30 a.m., for a period of two weeks and thereafter, as and when required for interrogation.

[c] the petitioners shall not tamper with evidence or



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witness either during investigation or trial.

[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]**.

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

12. Consequently, connected miscellaneous petition is ordered.

25.03.2024

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