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Crl.M.P.No.1322 of 2024

in

Crl.O.P.No.7699 of 2023

A.D.JAGADISH CHANDIRA, J.

The present petition has been filed by a victimized complainant seeking cancellation of bail granted by this court in Crl.O.P.No.7699 of 2023 to the second respondent herein in respect of offences punishable under Sections 294(b), 448, 420, 506(2) IPC in Crime No.426 of 2022 on the file of the first respondent herein, contending that the second respondent herein had misrepresented this court for getting the bail and he had not fulfilled the condition imposed by this court while granting the bail.

2. The case of the prosecution as per the defacto complainant K.Kanagaraj, is that, he is the owner of the house in Plot No.468 at Mugappair Eri Thittam, 2nd Street and it has five portions. The accused, who was running Arinaa Service Apartments, approached him saying that, he would take the houses for lease. Believing the same, the defacto complainant had handed over the possession of houses to him whereas, the accused, without the authority of the complainant, had given those plots on usufructuary mortgage to third parties and



thereby cheated the de facto complainant.

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3. While seeking bail, the second respondent herein claimed to be a genuine businessman, his family possesses several landed properties and due to mismanagement, financial disputes had arisen in his business and the persons, who had taken the premises for lease, had not paid the rent. Further, undertakings were given on his behalf by his close relatives to settle the dispute with the de facto complainant, however, since no effort has been taken from the side of the accused to settle the dispute, the de facto complainant has come up with the present petition seeking cancellation of bail.

4. Apprehending the grave nature of offence and the alarming rise in number of similar cases in the recent days, this court had directed the learned Government Advocate (Criminal Side) to probe into the issue and come out with the statistics of similar nature.

5. Accordingly, the learned Government Advocate had filed a Status Report on 9.2.2024.



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6. On considering the status report and on hearing the parties further, this court was able to understand that it is a case wherein, houses were taken from the de facto complainant under the guise of lease and later subjected to usufructuary mortgage to third parties without the knowledge of the owner by receiving huge amount and thereby fraud having been played upon the de facto complaint. In other words, it is a case where the house owner and the home seeker have been taken for a ride by an intermediary, claiming to be a genuine tenant or person offering services. In order to have a clear view, this court had directed the learned Government Advocate to secure the details of cases of similar *modus operandi* pending on the files of the Police Stations within the jurisdiction of Greater Chennai, Avadi, and Tambaram Commissionerates.

7. Accordingly, the learned Government Advocate has filed a detailed report furnishing the particulars of similar cases pending with the jurisdiction of Greater Chennai Police, Avadi Commissionerate and Tambaram Commissionerate. It reveals that 40 cases are pending in Chennai where 67 victims are affected and total amount involved is more than Rs.7 crores. Insofar as Tambaram is concerned 9 cases are



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filed, 342 victims are affected and more than Rs.13 crores are involved. In the Avadi Commissionerate, 4 cases are filed, 20 victims are affected and more than Rs.2 crores are involved. He has also furnished an information that **4 cases** have been registered by the **Economic Offences Wing**, wherein **1020 victims** have been affected and more than Rs.41 crores have been involved. **In all, the amount cheated** comes to a whopping amount of more than 65 crores to be precise **Rs.65,58,85,069/-**. It is also seen that those cases are **pending from the year 2013** without finality being arrived at.

8. From the *modus operandi*, this Court is able to see that the accused, after receiving the money from the gullible victims, have projected the case as if it is a case of civil nature and are attempting to escape from the clutches of penal law. Further, this court finds that since there seems to be no proper understanding of law, cases registered in the year 2013 have not resulted in filing of final reports. This court is also reminded of the similar *modus operandi* where cars were taken by fraudsters under the guise of rent by entering into agreements with the owners and thereafter they would be sold or handed over to third parties at a far away place for hefty amounts and



thereafter, the fraudsters go into hiding leaving the owners of the cars into lurch.

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9. An exploration into the nature of the offence involved taking cue from the present case reveals that we are being confronted with the situation especially from the onset of pandemic that our youngsters and genuine home buyers, who aspire to buy or occupy their houses with their hard earned money, had to protect their interest from the vindictive ones. No doubt the real agents, who assist them in procuring properties of their choice need to be encouraged, however, without there being any room for the malicious persons to camouflage to be genuine and develop themselves.

10. In this regard, this court feels that there seems to be no proper awareness among the common people with regard to this kind of offence. This court also feels that if the details relating to cases of similar nature pending in Chengalpattu, Kanchipuram and Thiruvallur District and other two tier cities are collected, the number of victims and the amount involved will certainly be exorbitant. Therefore, it is high time that the public at large should be made aware of the *modus*



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operandi of the offence and the Government should make wide campaigns in all media to prevent the similar nature of offence in future. As an initiative, this court ***suo motu* impleads the Director General of Police, Tamil Nadu State Police.** The **Director General of Police shall take adequate steps** to prevent this type of offence.

11. So far as the present case is concerned, Mr.Muthamil Selvakumar, learned counsel representing the accused submits that though the accused had taken several steps to settle the dispute, he is unable to dispose the same as the same being ancestral properties and thereby, he would submit submit that if six months time is given, he would settle the same. He would also submit that an affidavit of undertaking also would be filed in this regard.

12. Post a matter in the second week of June 2024 for further orders.

27.3.2024

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