

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO(S) . 1957/2017

S.S. RAJENDRAN

APPELLANT (s)

VERSUS

STATE REP. BY INSPECTOR OF POLICE & ANR. RESPONDENT (s)

WITH

CRIMINAL APPEAL NO(S) .1958/2017

FARHANA

APPELLANT (s)

VERSUS

STATE REP BY INSPECTOR OF POLICE & ANR. RESPONDENT (s)

O R D E R

Leave granted.

2. We have heard the learned counsel on either side at length and perused the material available on record.

3. The appellants are before us by way of the above appeals assailing the order passed by the High Court of Madras in Criminal Original Petition No. 14452 of 2017, dated 26.07.2017 in an application filed by them under Section 438, Cr.P.C. seeking anticipatory bail.

4. The appellant S.S. Rajendran in Criminal Appeal No. 1957 of 2017 is the husband of the appellant Farhana in Criminal Appeal No. 1958 of 2017 to whom this Court has on 27-10-2017 granted permission to file S.L.P. as she was not a party before the High Court, but concerned with the case on hand.

5. The brief facts leading to these appeals, as appear from the record, are that one Begum was the original owner of a property bearing D/No. 9A, Parasakthi Nagar, 1st Main Road, Sembakkam and on 2nd November, 1993 she got a power of attorney registered in favour of Mohammed Shafi (an ex-serviceman), father-in-law of the appellant S.S. Rajendran and father of appellant Farhana. Later on 20th October, 2000, after cancelling the earlier power of attorney, the original owner Begum has got another power of attorney registered in favour of appellant S.S. Rajendran. For all the three documents, Respondent No. 2 herein, who is mother-in-law of the appellant S.S. Rajendran and mother of appellant Farhana, attested as witness. On 28th May, 2002 appellant S.S. Rajendran being

power of attorney holder, executed a settlement deed in favour of his wife Farhana (appellant) and handed over possession of the property to her. Resultantly, Respondent No. 2 was dispossessed and both the appellants herein occupied the property.

6. On 9th July, 2017 Respondent No. 2 lodged a complaint against her son-in-law (appellant herein) under Sections 406, 420, 468, 471 and 506(1) of the Indian Penal Code, 1860. Her specific complaint is that the appellant Rajendran on the strength of a fraudulent power of attorney, executed the settlement deed in faovur of his wife and illegally trespassed and occupied the property after forcefully dispossessing her.

7. In pursuance of the said complaint, appellant S.S. Rajendran moved the High Court seeking anticipatory bail. While rejecting his application for anticipatory bail, the High Court has made some observations on the merits of the title dispute between the parties despite it being purely of civil nature. In addition to that, in para 10 of its order, the High Court issued some directions to the police, which read thus:

"10. Mr. H. Krishnamurthy, Assistant Commissioner of Police, Selaiyur is present before this Court today. He is directed to give sufficient protection to the widow of the Ex-serviceman to take possession of her own property and ensure that her possession is not threatened by the accused".

8. We are not able to appreciate the directions given by the High Court to the police with regard to providing security, delivery of possession in an application filed under Section 438 of Cr.P.C. seeking anticipatory bail. The High Court travelled beyond the scope of application in question and went on to decide the rights of the parties in respect of an immovable property and the validity of a registered agreement which is under the jurisdiction of a Civil Court.

9. In view of above discussion, we are not inclined to interfere with the order passed by the High Court as far as rejection of anticipatory bail is concerned, but insofar as the observations and directions made in para 10 are concerned, we hereby set aside them. The parties are, however, at liberty to take appropriate recourse as per law before the appropriate forum for settling their

rights over the disputed property. We make it clear that we have not expressed any opinion on the merits of the case.

10. The appeals are accordingly disposed of.

.....J.
[N.V. RAMANA]

.....J.
[AMITAVA ROY]

NEW DELHI,
NOVEMBER 15, 2017.

ITEM NO.9

COURT NO.9

SECTION II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Cr1.) No(s). 5849/2017

(Arising out of impugned final judgment and order dated 26-07-2017 in CRLOP No. 14452/2017 passed by the High Court Of Judicature At Madras)

S.S. RAJENDRAN

Petitioner(s)

VERSUS

STATE REP BY INSPECTOR OF POLICE & ANR.

Respondent(s)

(IA No.71045/2017-EXEMPTION FROM FILING O.T. and IA No.107812/2017-EXEMPTION FROM FILING O.T.)

WITH

SLP(Cr1) No. 8347/2017 (II-C)

(FOR ADMISSION and I.R. and IA No.105036/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.105035/2017-EXEMPTION FROM FILING O.T.)

Date : 15-11-2017 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA
HON'BLE MR. JUSTICE AMITAVA ROY

For Petitioner(s) Ms. V. Mohana, Sr. Adv.
Mr. B. Ragunath, Adv.
Mr. A. Vasantha Kumar, Adv.
Mr. Vijay Kumar, AOR

Mr. Sriram P., AOR
Mr./Ms. A. Nair, Adv.

For Respondent(s) Mr. B. Karunakaran, Adv.
Mr. S. Gowthaman, AOR

Mr. M. Yogesh Kanna, AOR
Ms. Sujatha Bayadhi, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeals are disposed of in terms of the signed order.

Pending application(s), if any, stands disposed of accordingly.

(ASHWANI THAKUR)
COURT MASTER (SH)

(RENUKA SADANA)
ASST.REGISTRAR

(SIGNED ORDER IS PLACED ON THE FILE)