

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 21.07.2015

DELIVERED ON : 29.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.8678, 8774 and 10449 of 2014

P.G.Saleem
N.Mohan
Uma Prasad

... Petitioner in Crl.O.P.8678/2014
.. Petitioner in Crl.O.P.8774/2014
.. Petitioner inCrl.O.P.10449/2014

Vs

1.The State, rep by
The Assistant Commissioner of Police
Avadi, Chennai.

2.The Inspector of Police
Land Grabbing Cell [DCB]
Thiruvallur District
Thiruvallur.

3.Dr.T.Banumathi ... Respondents in Crl.O.P.8678/2014
[R3 impleaded as per order of the Court dated 21.07.2015]

1.The State rep by
The Commissioner of Police
Chennai City
Egmore, Chennai 600 008.

2.The Asst.Commissioner of Police
Avadi, Chennai.

3.The Inspector of Police
Avadi Police Station
Avadi, Chennai.

4.T.Banumathi .. Respondents in Crl.O.P.8774/2014
[R4 impleaded as per order of the Court dated 21.07.2015]

1.The Commissioner of Police
Greater Chennai
Vepery, Chennai 600 007.

2.Deputy Commissioner of Police
Anti-Land Grabbing Special Cell
O/o the Commissioner of Police
Vepery, Chennai 600 007.

3.The Inspector of Police
Avadi Police Station
Chennai 600 054.

4.T.Banumathi ... Respondents in Crl.O.P.10449/2014
[R4 impleaded as per order of the Court dated 21.07.2015]

Prayer:- Criminal Original Petition Nos.8678 and 8874 of 2014 filed under Section 482 Cr.P.C. to pass an order of direction directing the respondents to register and investigate the complaints of the petitioners dated 19.03.2014, 31.07.2012 in accordance with law to secure the ends of justice.

Prayer: Crl.O.P.No.10449 of 2014 filed under Section 482 Cr.P.C. to direct the respondents 2 and 3 to act in accordance with law and register an FIR on the basis of the petitioner's complaint dated 19.03.2014 and proceed with the same in accordance with law and file a final report within a time frame.

For Petitioners	Mr.I.Subramanian, Senior Counsel for Mr.M.Panivel
For R1 & R2 in Crl.OP.8678/2014	Mr.V.S.Sethuraman, Addl.Advocate General &
For R1 to R3 in Crl.OPs.8774/2014 & 10449/2014	Mr.S.Shanmugavelayutham, Public Prosecutor Asstd. by Mr.C.Emalias, Addl.Public Prosecutor

For R3 in Crl.OP.8678/2014 Mr.Vijay Narayanan, Senior Counsel
& For R4 in Crl.OPs.8774/2014 for Mr.Naveenkumar Murthi
& 10449/2014

C O M M O N O R D E R

The grievance of the three petitioners is that, they are the owners of small patches of land, surrounding which one Dr.T.Banumathi has purchased all the lands and has established an Educational Institution in the name of St.Peter's Engineering College and thereby

blocking the access to the land belonging to the petitioners.

2. It is an admitted fact that Dr.T.Banumathi is wife of one Thambidurai, a sitting member of the Parliament belonging to AIADMK party and therefore, it is alleged that he is misusing his official position to grab the properties of the petitioners. The police have filed a Status Report in all the three cases and have stated that after conducting due enquiries, they have closed the complaints on the ground that, the dispute is civil in nature and does not disclose the commission of a cognizable offence for the police to register an FIR. Both sides produced the site map which admittedly shows that, small patches of lands belonging to the petitioners are relocated amidst the lands of the College.

3. It is the contention of Mohan, the petitioner in CrI.O.P.No.8774 of 2014 that, the land shown as plot no.390 in the site map belongs to the family members of his wife Geetha and that they have given him a Power of Attorney dated 29.06.2010 to act on their behalf. It is his further allegation that, Dr.Banumathi is not entitled to the said land and that she has purchased it from one Balakrishnan on 16.03.2009, who himself does not have title, as he had purchased it from the legal heirs of Devaraja Naicker. Thus, the dispute with regard to plot no.390 is essentially concerning title to the property. In this regard, Mohan has filed O.S.No.226 of 2010 before the District Munsif, Poonamallee on behalf of his principals against one Viswanathan, Venugopal and St Peter's College, for a bare injunction restraining the defendants from interfering with his peaceful possession of the property. During the pendency of O.S.No.226 of 2010, Mohan has filed another suit on behalf of his principals in O.S.No.29 of 2012 before the Sub Judge, Poonamallee against the vendors of the property and St.Peter's Institute for a declaration that, he is entitled to the suit property and for recovery of vacant possession. Thus, even according to Mohan, he is not in possession of the said property and therefore, there is no question of Banumathi forcibly dispossessing him from the property. Banumathi has purchased the property from Defendant No.7 in O.S.No.29 of 2012, who in turn had purchased the property from defendants 1 to 6, which purchase is the subject matter of challenge in O.S.No.29 of 2012. Under such circumstances, the complaint lodged by Mohan on 19.03.2014 for registering an FIR for alleged land grabbing against Banumathi cannot hold water. Therefore, the contention of the police that, the dispute is essentially civil in nature and therefore, they cannot register an FIR as no cognizable offence has been made out, cannot be faulted.

4. Coming to the case of the petitioner/Saleem in CrI.O.P.No.8678 of 2014 and the petitioner/Uma Prasad in CrI.O.P.No.10449 of 2014, they both own a portion each of a plot marked 244 in the site and it is their contention that, their access to the main road has been blocked by Banumathi, by constructing a compound wall on the northern side. It is seen that both Saleem and

Uma Prasad had purchased their pieces of the plot in plot no.244 on 17.12.2006 and much before that, the properties surrounding their plots have been purchased by the College. The plots surrounding the land of Saleem and Uma Prasad were purchased as follows:

243/1 was purchased on 21.08.2006;
244/1 was purchased on 27.08.1998;
245/2 was purchased on 20.03.2003; and
242/1 purchased on 11.06.2001.

Therefore, it is obvious that Saleem and Uma Prasad have purchased the property knowing full well that their property is land locked and it belongs to the College. From the site map produced by the parties it is obvious that, the compound wall has been built around the property belonging to the College as security for the hostelites and students in the northern side and the entire southern side has been left empty. That apart, the complaint given by the petitioners do not disclose the commission of cognizable offence and just because the land around them has been purchased by Banumanthi and the access is being blocked on the northern side, no criminal prosecution can be launched against the College authorities.

5. Mr.I.Subramanian, learned Senior Counsel submitted that the act of the College authorities would fall within the meaning of Section 341 IPC. This Court is unable to countenance this submission, because under Section 341 IPC it is necessary that, the person who alleges to have been restrained should have been in fact restrained by the accused. Section 341 IPC does not contemplate constructive and notional restraints and it contemplates actual physical restraints. May be the easementary rights of the petitioners are impinged by the act of the College authorities, for which, setting into motion criminal law is not the answer. In fact, the conduct of the College authorities may even be blameworthy, but every blameworthy conduct is not an offence. Mr.I.Subramanian, learned Senior Counsel further contended that the complaint discloses the commission of offence under Section 506 IPC, inasmuch as the College authorities had threatened and intimidated the petitioners. On a reading of the complaint, it neither discloses the date nor it discloses the name of the person who allegedly intimidated the complainant.

In the result, the petitions are devoid of merits and they are accordingly dismissed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Assistant Commissioner of Police
Avadi, Chennai.

2.The Inspector of Police
Land Grabbing Cell [DCB]
Thiruvallur District
Thiruvallur.

3.The Commissioner of Police
Chennai City
Egmore, Chennai 600 008.

4.The Inspector of Police
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Avadi, Chennai.

5. The Deputy Commissioner of Police
Anti-Land Grabbing Special Cell
O/o the Commissioner of Police
Vepery, Chennai 600 007.

6.The Public Prosecutor
High Court, Madras.

+1 cc to Mr.NaveenKumar Murthi Advocate sr.38783

+3 cc to Mr.V.Palanivel Advocate sr.38787/15

+1 cc to Public Prosecutor High Court Madras sr.38847

Crl.O.P.No.8678, 8774
and 10449 of 2014

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