

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 12.06.2015

DELIVERED ON : 18.06.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP No.13986 of 2015
and M.P.No.1 of 2015

1. Dr.N.Nalla Palanisami
2. Arun Palanisami

.. Petitioners

Vs

1.State rep by
Sub Inspector of Police
B6, Peelamedu Police Station
Coimbatore
(Crime No.922 of 2014)

2.D.Udayakumar

.. Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to FIR in Crime No.922 of 2014 on the file of the Sub Inspector of Police, B6 Peelamedu Police Station, Coimbatore and quash the same insofar as the petitioners are concerned.

For Petitioners Mr.R.Krishnamoorthy,
Senior Counsel
for Mr.R.Bharathkumar

For R1 Mr.C.Emalias,
Addl.Public Prosecutor

ORDER

This petition has been filed to call for the records relating to FIR in Crime No.922 of 2014 on the file of the Sub Inspector of Police, B6 Peelamedu Police Station, Coimbatore and quash the same insofar as the petitioners are concerned.

2. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the State.

3. On a complaint lodged by one Udayakumar, the police were conducting petition enquiry in CSR No.254 of 2014. The said Udayakumar approached this Court in Crl.O.P.No.26927 of 2014 for a direction to the respondent police to register regular case. On the orders passed by this Court in Crl.O.P.No.26927 of 2014, the

respondent police registered a regular case in Cr.No.922 of 2014 under Sections 147, 148, 447, 294(b), 427 and 506(i) IPC against three named persons and 30 other unnamed persons.

4. The gravamen of the allegation in the complaint is that, the land measuring 12 cents in 547/2A Kalapatti Village belongs to the parents of Udayakumar, which were under his possession and enjoyment and was being used by him for parking of vehicles. It is alleged in the complaint that, the petitioners who are the accused, attempted to dispossess the defacto complainant once on 25.08.2014 illegally, pursuant to which the defacto complainant preferred O.S.No.1808 of 2014 and obtained ad interim order of injunction restraining the petitioners/accused from interfering with his peaceful possession and enjoyment of the property. It is further alleged in the complaint that again there was an aggression by the petitioners/accused on 30.08.2014 and therefore, he had to call "100" for help. The present complaint under investigation in Cr.No.922 of 2014 is in respect of this incident.

5. Mr.R.Krishnamurthy, learned Senior Counsel appearing for the learned counsel on record submitted that, the FIR is a clear abuse of process of law inasmuch as civil suit is pending between the parties in O.S.No.472 of 2014 before the District Judge, Coimbatore, in which an Advocate Commissioner was appointed to inspect the property. He also brought to the notice of this Court the interim report dated 30.10.2014 filed by the Advocate Commissioner, wherein it is stated that the defendant/defacto complainant refused to take even notice for inspection. In paragraph 6 of the interim report relied upon by Mr.R.Krishnamurthy, learned Senior Counsel, it is stated as follows:

"6. Both the time of my inspections I notice that the security guards of the petitioner refused to allow the respondents to enter the suit property. Therefore, on my instructions the representatives of the petitioner instructed her security guards to allow the respondents to enter the suit property."

From the above it is clear that the petitioners/accused who belong to the plaintiff's side in O.S.No.472 of 2014 have put security guards around the disputed site and are even preventing the defacto complainant/defendant from entering into it.

6. According to the defacto complainant, the petitioners/accused who are the owners of a leading hospital and other institutions in Coimbatore, are trying to usurp his property by hook or crook by engaging henchmen. In the complaint the defacto complainant has also given the registration numbers of five vehicles in which the aggressors came with henchmen on 16.11.2014. All these facts require a thorough investigation by the police, especially

where the defacto complainant is an ordinary citizen who is resisting the aggression of a mammoth organisation which has money power. The Hon'ble Supreme Court in Bajanlal vs. State of Haryana, [AIR 1992 SC 604] has laid down the parameters for quashing the FIR. In this case, there are sufficient materials for the police to proceed with the investigation and it does not fall within the parameters laid down in the said case.

In the result, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

gms

s/d-

Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

To

1.Sub Inspector of Police
B6, Peelamedu Police Station
Coimbatore.

2.The Public Prosecutor
High Court, Madras.

+ 1 cc to Mr.R.Bharath Kumar, Advocate SR 30288

rj(co)
prk25/6

Crl.OP No.13986 of 2015

WEB COPY