

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30-10-2015

CORAM:

THE HON'BLE MR. JUSTICE P.N.PRAKASH

CrI.O.P.No.25803 of 2015
M.P.No.1 of 2015

Mariyammal

.. Petitioner

Vs.

1. The State, rep.by
Inspector of Police,
T-10 Police Station,
Tirumullaivoyal,
Chennai - 600 062
(Crime No.607 of 2015)

2. B.Venkatesh .. Respondents

Prayer: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure with a prayer to call for the records and quash the FIR in Crime No.607 of 2015 on the file of the Station House Officer, T-10, Tirumullaivoyal Police Station, as far as the petitioner is concerned.

For Petitioner : Mr.R.Harinath

For Respondents : Mr.C.Emalias,
Additional Public Prosecutor

Reserved on	Pronounced on
26-10-2015	30-10-2015

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O R D E R

On a complaint lodged by the second respondent/defacto complainant, the first respondent Police registered a case in Crime No.607 of 2015 on 13.7.2015 under Sections 420, 468, 471 and 506(i) of IPC against four accused, challenging which Mariyammal (A-3) is before this Court.

2. Heard Mr.R.Harinath, learned Counsel for the petitioner; Mr.C.Emalias, learned Additional Public Prosecutor; and perused the FIR.

3. It is the case of the defacto complainant that his neighbour Shanthi (A-2) represented to him that a land measuring 1125 sq.ft. near Tirumullaivoyal belongs to their family, and that the said land is being managed by her brother Rajini (A-1), and that, if a sum of Rs.3,50,000/- is paid, her family members will sell the said land to him. Believing the said representation, the defacto complainant went to the house of Shanthi (A-2) on 20.5.2013 and in the presence of Rajini (A-1), Mariyammal (A-3) and one Babu (A-4), handed over a sum of Rs.3,50,000/-. Rajini (A-1) acknowledged the receipt of the said amount by issuing a receipt in Rs.100/- stamp paper, in which Babu (A-4) signed as a witness. The accused sought one month time for conveying the property to the defacto complainant. After a month, the accused started evading the defacto complainant and further threatened him if he insisted on getting the land. On enquiry, the defacto complainant realised that the said land is a Government Poramboke land, and that has been shown to him by the accused as belonging to them, and a sum of Rs.3,50,000/- has been received from him.

4. The learned Counsel appearing for the petitioner submitted that there is no overt act against Mariyammal (A-3) in the FIR, except a stray statement in the complaint.

5. This Court carefully scrutinized the FIR. Mariyammal (A-3) is the mother of Rajini (A-1) and Shanthi (A-2), and according to the defacto complainant, she was present on 20.5.2013 when Rs.3,50,000/- was handed over to the accused. Therefore, it cannot be stated that there is no incriminating material as against Mariyammal (A-3).

6. The learned Counsel for the petitioner further submitted that the defacto complainant has referred to the presence of the daughter-in-law of the petitioner, but she has not been arrayed as an accused, which only shows that the complaint is vexatious.

7. It is true that the defacto complainant has stated that the daughter in-law of the petitioner was also present, but her name has not been mentioned in the complaint. May be, the defacto complainant did not know her name. That by itself cannot be a reason to disbelieve the assertion of the defacto complainant about the presence of the petitioner when the sum of Rs.3,50,000/- was paid on 20.5.2013.

8. FIR is not an Encyclopedia of the prosecution case. If during the investigation it is found that this petitioner was not involved in the offence, it is needless to state that criminal action against her will be dropped. The Honourable Supreme Court in State of Haryana v. Bhajan Lal (AIR 1992 SC 604 : 1992 Supp (1) SCC 335) has laid down the parameters to conduct investigation by the Police.

9. In this case, the Government poramboke land has been shown to the defacto complainant and a sum of Rs.3,50,000/- was received from him, representing that the said land belongs to the family of the accused. In the teeth of such allegation, the FIR against the petitioner cannot be quashed. Consequently, this petition is dismissed. Connected M.P.No.1 of 2015 is also dismissed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vr

To

1. The Inspector of Police, T-10 Police Station,
Tirumullaivoyal, Chennai - 600 062

2. The Public Prosecutor, High Court, Madras.

+ 1 cc to Mr.R. Harinath, Advocate Sr.59169

Cr1.O.P.No.25803 of 2015

SK(CO)
Eu 6.11.15

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