

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22-12-2015

CORAM:

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

Cr1.O.P.No.27516 of 2013

1. S. Giri
2. G. Lingeswari
3. G. Kasinathan .. Petitioners/ Accused

Vs.

State by:

1. The Inspector of Police (Law & Order),
P-4 Basin Bridge Police Station,
Chennai - 600 012,
(Crime No.137 of 2013)
2. S. Srinivasan .. Respondents/
Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure with a prayer to call for the records in Crime No.137 of 2013 on the file of the respondent Police and quash the same in the interest of justice.

For Petitioners : Mr.K.P. Chandrasekaran
For 1st Respondent : Mr.K. Prabakar,
Government Advocate (Cr1.Side)
For 2nd Respondent : Mr.R. Veeramani

Reserved on	Pronounced on
18-12-2015	22-12-2015

ORDER

This petition has been filed to quash the prosecution in Cr.No.137 of 2013 on the file of first respondent Police.

2. It is the case of S.Srinivasan (defacto complainant/second respondent herein) that he was a tenant under S.Giri (first petitioner herein) in a residential portion, and that on 7.12.2012 he was physically dispossessed by his landlord S.Giri. Immediately he called the Police helpline No.100 and

Police came to the spot. The matter was taken to the local Police Station, where nothing substantial happened.

3. On the complaint dated 30.12.2012 lodged by S.Srinivasan (defacto complainant/second respondent) a petition enquiry was conducted in C.S.R.No.178 of 2012 by the respondent Police and thereafter a regular FIR in Cr.No.137 of 2013 was registered on 3.3.2013 under Section 294(b), 341 and 506(i) IPC against S.Giri. During the course of enquiry, further statement of S.Srinivasan (defacto complainant/second respondent) was recorded by the Police, based on which the offences were altered to Section 294B, 341, 506(i), 457 and 380 IPC and Lingeswari (wife of Giri) and Kasinathan (son of Giri) were added as co-accused.

4. Mr.K.P.Chandrasekaran, learned Counsel appearing for the petitioners submitted that S.Srinivasan (second respondent) vacated the premises as early as on 6.12.2012 and there was arrears of rent and once again he tried to re-enter the premises, which was resisted by the petitioners.

5. While considering an application for quashing the FIR this Court cannot go into disputed questions of fact and the Court is bound to strictly follow the parameters laid down by the Supreme Court in State of Haryana v. Bhajan Lal (1992 Sup (1) SCC 335).

6. On reading the original complaint dated 30.12.2012 given by S.Srinivasan (defacto complainant/second respondent), it is seen that he has not spoken a word about the involvement of Lingeswari and Kasinathan. Admittedly during pendency of this proceeding, an Advocate Commissioner was appointed and he submitted a report, based on which the Police have recorded the further statement of S.Srinivasan (defacto complainant/second respondent) on 30.5.2013 and altered the FIR as stated above. Only in the further statement dated 30.5.2013 S.Srinivasan (defacto complainant/second respondent) has included the name of S.Giri's wife Lingeswari and their son Kasinathan. Thus, this Court finds that there is an attempt by the defacto complainant/second respondent to implicate all the family members of S.Giri in the offence.

7. As regards Giri, there are sufficient materials even in the first complaint dated 30.12.2012, warranting investigation against him and hence the FIR against him cannot be quashed.

8. Mr.K.P.Chandrasekaran, learned Counsel appearing for the petitioners placed strong reliance upon the judgment of this Court in Sasikumar v. State by Sub-Inspector of Police, Tirutani Police Station, Tiruvallur District (2010 (3) CLT 642) and submitted that the alteration report is illegal. This Court carefully read the said judgment and found that the facts therein

are totally different from the facts on hand. In that case, initially a FIR under Section 174 Cr.P.C. was registered and during investigation, an alteration report altering the offence to Section 306 IPC was added, which was quashed on the ground that there was no material to implicate the accused under Section 306 IPC. On the contrary, in this case, there are sufficient materials in the complaint given by S.Srinivasan against S.Giri for a full-fledged investigation.

9. This Court has in CrI.O.P.No.8423 of 2013 by order dated 22.12.2015, transferred the investigation in Cr.No.137 of 2013 from the file of Inspector of Police, P-4 Basin Bridge Police Station to the file of Assistant Commissioner of Police, Pulianthope, to be conducted under the supervision of the Deputy Commissioner of Police.

10. In such circumstance, this petition is partly allowed and the FIR in Cr.No.137 of 2013 on the file of Inspector of Police, P-4 Basin Bridge Police Station is quashed as against Lingeswari (wife of Giri) and Kasinathan (son of Giri) (petitioners 2 and 3 herein). This petition is dismissed as against S.Giri (first petitioner herein) and the investigation shall be proceeded as against him.

Sd/-

Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

vr

To

1. The Inspector of Police
P-4 Basin Bridge Police Station,
Chennai - 600 012,

2. The Assistant Commissioner of Police
Pulianthope Range
Chennai

3. The Deputy Commissioner of Police
Pulianthope Range
Chennai

1 cc to M/s.K.P. Chandrasekaran, Advocate,.sr. 69631

CrI.O.P.No.27516 of 2013

RSI (CO)
kk 7/1