

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.11.2016
CORAM
THE HONOURABLE MR.JUSTICE P.N.PRAKASH
Crl.OP No.1249 of 2011
and
MP.1 of 2011

Rajesh S.Bajaj

... Petitioner/Accused

Vs

1. The State, rep.

Inspector of Police (L&O)
V-1, Villivakkam Police Station,
M.T.H.Road, Villivakkam, Chennai-600 049.

2. A.S.Mallika

... Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for record in V-1, Villivakkam P.S. Crime No.1153/2010 pending on the file of the 1st respondent police i.e., V-1, Villivakkam, Police Station, Chennai and quash the same.

For Petitioner : Mr.M.Shreedhar

For R1 : Mr.C.Emalias
Additional Public Prosecutor

For R2 : Mr.D.Nellaiappan

ORDER

This criminal original petition has been filed to call for the records in V-1, Villivakkam P.S. Crime No.1153/2010 pending on the file of the 1st respondent police i.e., V-1, Villivakkam, Police Station, Chennai and quash the same.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the 1st respondent and the learned counsel appearing for the 2nd respondent.

3. Today, Mr.S.K.Durai Pandian, Inspector of Police, V-1, Villivakkam Police Station is present. Dr.A.S.Mallika, de-facto complainant is present and she is also represented by her advocate Mr.D.Nellaiappan.

4. On the complaint given by the de-facto complainant, the first respondent police registered a case in Crime

No.1153/2010 on 18.12.2010 under Sections 468, 471, 448, 427 and 380 IPC against Raju, Rajesh S.Bajaj and his wife Anuja R.Bajaj and others.

5. It is the case of the de-facto complainant, that she had purchased a flat bearing No.CT-3, Third Floor, C-Block, Chinna Krishna Towers measuring 768 sq.ft bearing Door No.168-176, MTH Road, Villivakkam, Chennai-600 049 together with undivided share measuring 482 sq.ft under a registered sale deed dated 04.08.2010 executed by Mrs.Jayalakshmi, wife of Vijay, in her capacity of Power of Attorney of Vijay. The de-facto complainant had purchased the flat knowing fully well that Vijay had mortgaged the property with LIC Housing Finance Ltd.,.

6. It is alleged by the de-facto complainant that on 16.12.2010, Raju, Rajesh S.Bajaj and his wife Anuja R.Bajaj forcibly took possession of the property from her. She has further stated that she came to know that her vendor Vijay represented by his wife Jayalakshmi, had sold the flat at an earlier point of time to Rajesh S.Bajaj. Admittedly, Rajesh S.Bajaj had purchased the flat from Vijay on 08.04.2009. Suppressing the sale, Vijay appears to have manipulated the encumbrance certificate and had sold the same flat to Dr.A.S.Mallika, the de-facto complainant.

7. The allegations that are made in the FIR is that Rajesh S.Bajaj attempted to take forcible possession of the flat etc., do not inspire the confidence of this Court. The respondent police have not conducted any investigation in the case from 2010 onwards.

8. Therefore, this Court is of the view that the FIR against the petitioner herein deserves to be transferred and is hereby quashed. Accordingly, this Court transfers the investigation in Crime No.1153 of 2010 to the file of the Central Crime Branch for proper investigation. Mr.S.K.Durai Pandian, Inspector of Police, V-1, Villivakkam Police Station is directed to hand over the case diary in Crime No.1153 of 2010 to the Deputy Commissioner of Police, Central Crime Branch, within four weeks from the date of receipt of a copy of this order. The Deputy Commissioner of Police, Central Crime Branch, Chennai is directed to assign the case to a competent officer of the rank of Inspector in the Central Crime Branch. Rajesh S.Bajaj is directed to co-operate with the police in the investigation. The de-facto complainant is also directed to co-operate with the investigating officer, Central Crime Branch during investigation. There are prima facie materials against Vijay and his wife Jayalakshmi for investigation to proceed. However, during investigation, if it is found that Rajesh S.Bajaj also

conspired with Vijay, the quashment of the FIR will not preclude the police from including Rajesh S.Bajaj in the charge sheet if any.

With the above direction this petition is ordered. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Deputy Commissioner of Police
Central Crime Branch,
Chennai.
2. The Inspector of Police (L&O)
V-1, Villivakkam Police Station,
M.T.H.Road, Villivakkam, Chennai-600 049.
3. The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.M.Shreedhar Advocate sr 64147
+1 cc to Mr.D.Nellaiappan Advocate sr 64145

Cr1.OP No.1249 of 2011

rsy(co)
aa01/12/2016

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