

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.449 of 2018
and
Crl.M.P.No.5413 of 2018

Dr.K.Satish Babu

...Petitioner/Petitioner/
Defacto Complainant

..Vs..

State by
The Inspector of Police,
K-7, ICF Police Station,
Chennai.

...Respondent/Respondent
/Complainant

PRAYER: Petition filed under Section 397 read with 401 of the Criminal Procedure Code, to call for the records in Crl.M.P.No.1571 of 2017 in Crime No.769 of 2017 and set aside the order passed by the learned Chief Metropolitan Magistrate, Allikulam, Chennai dated 03.01.2018 and direct the learned Chief Metropolitan Magistrate, Allikulam, Chennai to return the keys of the premises of the ground floor situate at 153, MTH Road, Villivakkam, Chennai - 49, deposited by the respondent police in B.No.1571/2017 to the petitioner/defacto complainant.

For Petitioner : Mrs.K.Sumathi

For Respondent : Mr.B.Arulmozhimaran,
Govt.Advocate (Crl.side)

O R D E R

The de-facto complainant is the revision petitioner herein. He has filed Crl.M.P.No.1571 of 2018 before the Court below for return of keys of the premises in question on the following facts:

i) The revision petitioner had been managing the property in question on behalf of his wife and her sister who are the joint

owners of the property. The ground and first floor of the property was given under written agreement to one Saji John for doing business who did not settle the advance amount and rent and did not keep up his promise and cheques got dishonoured. But, he continue the occupied the premises without paying the rent until January 2016. The said Saji was to manage the entire business and there was partnership deed between the petitioner and the said Saji John. Thereafter, the partnership was agreed to be dissolved.

ii) Further, the said Saji having received cash of Rs.5,00,000/- as working capital from the petitioner did not render any account further business. There was also an arrears of rental amount which remained unpaid. When asked about the payment of the above said amount the said Saji informed the petitioner that he had incurred heavy loss in the business and agreed to surrender the vacant possossion of the premises on 9.8.2017 and also agreed to settle the amount due under the partnership and dissolution of partnership was also entered into between them. However, the said Saji informed that he would pay the agreed amount 36 installments and pay the EB amount outstanding as on that date and handed over the keys to the petitioner. Thereafter, the petitioner is in possession of the property. Since the said Saji had not paid the EB amount and involved in theft of energy, TANGEDCO disconnected the supply of electricity. Penalty was also calculatted. As agreed earlier, the said Saji did not pay the arrears of EB and further penalty was also not paid and further the installments as agreed under the deed of dissolution was also not paid.

iii) On 1.9.2017, the said Saji John broke open the building which was under the exclusive custody of the petitioner since the date of dissolution i.e., on 09.08.2017. The petitioner gave a compliant to the police which was registered by the respondent-police in F.I.R.No.769 of 2017. The police asked to the petitioner to put up a fresh lock and hand over to key them which was accordingly handed over to the police by the petitioner. The said Saji did not turn up for the enquiry. However, he was granted Anticibatory Bail on 12.09.2017 by this Court. Since then the keys are with the custody of the respondent-police and the petitioner could not enter into the premises without the keys to the ground floor although he is having access to the first floor. Hence, the petitioner approached the police for return of keys and filed complaint and there was no response. The petitioner came to know that the keys have been deposited before the Court below on 24.10.2017 in B.No.1571/2017. Hence, the petitioner has filed Crl.M.P.No.1571 of 2017 before the Court below for return of keys, which was dismissed by the Court below, against which the defacto-complainant has preferred this Revision Petition.

2. On a perusal of the rental agreement and also taking note of the fact that O.S.No.4526 of 2017 filed by the said Saji John against the revision petitioner herein and others before the City Civil Court, Chennai, was pending, the trial Court below rejected the Crl.M.P.

3. Learned counsel for the petitioner has filed a copy of the judgment and decree rendered in the said O.S.No.4526 of 2017, dated 18.01.2017 to demonstrate that the said suit had been dismissed for default. The alleged tenant is said to have tried to broke open the lock put up by the revision petitioner/de-facto complainant, and hence, the revision petitioner has filed a complaint before the respondent-Police. The partner Saji John, who is said to have run the business, namely 'Johns Palamudir Nilayam', has moved Crl.O.P. and obtained Anticipatory Bail as stated above. However, it appears that he had not executed the bail bond and complied with conditions stated in the order and as such, did not execute the bail bond. It also appears that the said suit filed by him had been dismissed for default.

4. When such being the case, and also the respondent-Police having stated no objection, since the petitioner who admittedly the landlord, was in possession of the property and has also deployed security to maintain the property, and when the accused has tried to enter into the property and broke open the door, the revision petitioner has lodged a complaint.

5. Hence, I am of the considered view that the keys of the premises in question shall be handed over to the petitioner herien. Accordingly, there will be a direction to the Court below to hand over the keys in question that is deposited before the Court, to the revision petitioner herein on the revision petitioner filing a memo that he may be permitted to take the keys in question. Accordingly, Crl.R.C. is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Chief Metropolitan Magistrate, Allikulam

2.The Inspector of Police , K.7. I.C.F.Police Station, Chennai.

+2cc to Mrs.K.Sumathi, Advocate, S.R.No.25099

Crl.R.C.No.454 of 2018 and
Crl.M.P.No.5413 of 2018

RRK(09/04/2018)



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