IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 09.04.2018

DELIVERED ON: 16.04.2018

CORAM:

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

Crl.O.P. No.834 of 2018 & Crl.M.P. Nos.277, 2249 and 2250 of 2018

1 Duraipandian
2 G. Selvam ... Petitioners

vs.

1 State represented by
the Inspector of Police
S-10, Pallikaranai P.S.
Kanchipuram District
(Crime No.2987 of 2017)

2 Jaganathan ... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to call for the records pertaining to the F.I.R. in Cr. No.2987 of 2017 on the file of the first respondent police and quash the said F.I.R. in Cr. No.2987 of 2017 dated 29.12.2017 as against the petitioners/accused 3 & 4.

For petitioners : Mr. A. Ramesh, Sr. Counsel
for Mr. N. Ramesh

For R1 : Mrs. Kritika Kamal
Government Advocate (Crl. Side)

For R2 : Mr. V. Ramana Reddy

ORDER

This Criminal Original Petition has been filed seeking to call for the records pertaining to the F.I.R. in Cr. No.2987 of 2017 on the file of the first respondent police and quash the said F.I.R. dated 29.12.2017 as against the petitioners/accused 3 and 4.

2 On the complaint lodged by Jagannathan, the first respondent police have registered a case in Cr. No.2987 of 2017 on 29.12.2017 under Sections 294(b), 420, 468, 471 and 506(ii)

IPC and Section 4 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 against Ashok (A.1), Sivarajan (A.2), Duraipandian (A.3) and Selvam (A.4), for quashing which, Duraipandian (A.3) and Selvam (A.4) are before this Court.

3 Heard Mr. A. Ramesh, learned Senior Counsel appearing for the petitioners/accused, Mr. Ramana Reddy, learned counsel for the de facto complainant and Mrs. Kritika Kamal, learned Government Advocate (Crl. Side) appearing for the first respondent-State.

4 To appreciate the contentions raised by the learned Senior Counsel appearing for the petitioners/accused for quashing the F.I.R., it may be necessary to discuss the averments in the F.I.R.

5 The case of the de facto complainant is as under:

5.1 On 10.03.2015, the de facto complainant approached A.1 for a loan of Rs.70 lakhs and that A.1 agreed to give the loan on interest @ 24% per annum, but, demanded a power of attorney for a property measuring 1,745 sq. ft. belonging to the de facto complainant as security. The de facto complainant obtained Rs.70 lakhs and executed a Power of Attorney in favour of A.1 by Document No.5359 of 2015 and also gave a few blank signed sheets and blank signed cheques. He had repaid the entire amount with interest to A.1. But, A.1 was not returning the Power of Attorney. Besides, he was also demanding more interest. The de facto complainant had repaid Rs.1,21,40,000/- by cheque and R.T.G.S. to A.1, despite which, A.1 not only refused to return the Power of Attorney, but was also demanding more interest saying that the amount so far repaid by him has been adjusted only towards interest and not principal.

5.2 On 05.12.2017, A.1 entered into a sale agreement with A.4 in respect of the de facto complainant's property and on coming to know of it, the de facto complainant lodged a complaint with the Sub Registrar, Selayur, requesting him not to register the agreement since the Life Certificate that has been filed is a fabricated one. On coming to know of it, A.1 started intimidating the de facto complainant and so, the de facto complainant gave a complaint to the local police station on 12.12.2007, on which, no action was taken. There was exchange of notices. A.1 executed a sale deed in favour of his father-in-law (A.3) by submitting a Life Certificate forging the signature of the de facto complainant and the doctor who is said to have issued the Life Certificate. The de facto complainant, once again, gave an objection letter to the Sub Registrar, Selayur, pursuant to which, the document was not registered by the Sub-Registrar, Selayur. Since the accused were continuously threatening and intimidating the de facto complainant and demanding exorbitant interest of Rs.85 lakhs to relieve him from the transaction, on the complaint of the de facto complainant, the F.I.R. under challenge has been registered.

6 The learned Senior Counsel appearing for the petitioners/accused submitted that the de facto complainant had earlier given a complaint before the Thuraipakkam Police Station, on the basis of which, an enquiry was conducted and the same was closed and thereafter, the de facto complainant has given a second complaint, based on which, the F.I.R. has been registered and therefore, the second complaint is an abuse of process of law.

7 On a perusal of the complaint dated 12.12.2017 that was given by the de facto complainant to the Inspector of Police, Thuraipakkam Police Station, it is seen that he has alleged that A.1 is demanding exorbitant interest and is frequently threatening him. In the present complaint, the de facto complainant has not suppressed this fact, but, has stated that he had given the complaint dated 12.12.2017, but, no action was taken on his complaint by the Thuraipakkam Police. The additional feature in the present complaint is that the accused had created a bogus Life Certificate by forging the signature of the de facto complainant and the medical practitioner for registering a sale deed in favour of A.3.

8 The learned Senior Counsel appearing for the petitioners/accused submitted that a Life Certificate is not an essential document and any irregularity in that cannot vitiate the transaction. In support of this contention, he relied upon the following unreported orders passed by this Court.

i C.S. Chandra vs. The State of Tamil Nadu, Commercial Taxes and Revenue Department, Fort St. George, Chenai - 9 and 8 others (W.P. No. 3868 of 2016 - order dated 02.06.2016)

ii K. Krishnaveni vs. The Commissioner of Police, Vepery, Chennai - 7 and 2 others (Crl.O.P. No.833 of 2015 - order dated 24.02.2015)

iii K. Krishnaveni vs. State by the Inspector of Police, T-1, Ambattur Police Station, Chennai - 53 (Crl.O.P. No.9499 of 2015 - order dated 16.04.2015)

9 To appreciate the contention of the learned Senior Counsel, it may be necessary to dilate upon the purpose of a Life Certificate. When any document is registered on the strength of a Power of Attorney, the rules in Tamil Nadu require that the Power Agent should file a Life Certificate issued by a medical

practitioner that he has seen the principal and that the principal is alive. The photo of the principal will be affixed on the certificate, beneath which, the principal and the medical practitioner would affix their signature.

10 In this case, all the other allegations relating to the transactions between the de facto complainant and the accused are civil in nature, for which, the police investigation cannot be ordered, except insofar as the allegations relating to charging of exorbitant interest which is punishable under the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003. The main allegation in the F.I.R. is whether the Life Certificate was fabricated and forged.

11 As contended by the learned Senior Counsel appearing for the petitioners/accused, Life Certificate is intended only to show that on the date of registration of the document by the Power Agent, the principal was alive. Concededly, in this case, the de facto complainant who is the principal is alive even today. However, the investigation conducted by the police so far clearly shows that the Life Certificate dated 15.12.2017 has been forged by the petitioners/accused inasmuch as Dr. R. Anuradha, M.B.B.S., D.C.H., Chief Civil Surgeon, Government Hospital for Thoracic Medicine, Tambaram Sanatorium, has, in her statement to the police, clearly stated that she has not issued the Life Certificate and that her signature and seal have been forged.

12 During the course of investigation, the police have arrested A.1 who has stated as to how the Life Certificate was fabricated and forged by him, along with the other accused. The first petitioner herein, viz., Duraipandian (A.3) is none other than the father-in-law of A.1 and A.1 executed the sale deed hurriedly in favour of A.3 and attempted to register the document by submitting the forged Life Certificate to the Sub Registrar.

13 In the teeth of such overwhelming materials, a full-fledged investigation by the police with regard to the forgery of the Life Certificate which bears the signature of a Government Civil Surgeon, requires to be conducted. Hence, this is not a fit case for quashing the F.I.R. at the threshold.

14 The learned Senior Counsel appearing for the petitioners/accused contended that the de facto complainant is also not an angel inasmuch as he has alienated the property which was given as collateral.

15 If that is the grievance of the petitioners/accused, it is open to them to file a complaint against the de facto complainant and the police shall enquiry into it in accordance with law.

16 The learned Senior Counsel further contended that the averments disclosed in the complaint dated 12.12.2017 differ from the averments in the present complaint with regard to the transactions between the de facto complainant and the accused and therefore, the F.I.R. deserves to be quashed.

17 As observed by this Court above, the transactions between the de facto complainant and the accused relating to the sale of the property in question is not the essence of the subject matter of investigation. They are only collateral facts to explain the circumstances under which the bogus Life Certificate came into existence. That apart, this Court cannot compare the averments in the two complaints at the threshold and quash the F.I.R. To reiterate, the essence of the allegations in the F.I.R. at hand relates to fabrication of Life Certificate. Post registration of the F.I.R. in Cr. No.2987 of 2017, the police have gathered enough materials to show that Life Certificate is a fabricated document. Thus, when there are prima facie materials disclosing the commission of the offence of forgery, the F.I.R. in Cr. No.2987 of 2017 cannot be quashed on the ground that there are some variations in the narration of facts.

18 In the opinion of this Court, a thorough investigation in Cr.No.2987 of 2017 is essential and the same can be undertaken only by the Central Crime Branch as the Pallikaranai Police Station which is essentially a law and order police station will be ill-equipped to handle a white-collar offence of this nature.

Hence, this quash petition is dismissed. The Inspector of Police, Pallikaranai Police Station, Chennai, is directed to hand over the case diary in Cr. No.2987 of 2017 to the Deputy Commissioner of Police, Central Crime Branch, Vepery, Chennai, within a period of two weeks from the date of receipt of a copy of this order and the Deputy Commissioner of Police, Central Crime Branch, Vepery, Chennai, shall assign the case to a competent police officer for a thorough investigation.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

cad

To

1 The Inspector of Police
Pallikaranai Police Station
Chennai

2 The Deputy Commissioner of Police
Central Crime Branch
Vepery
Chennai

3 The Public Prosecutor
Madras High Court
Chennai 600 104.

+1cc to Mr.V.Ramana Reddy, Advocate, S.R.No.27980

+1cc to Mr.N.Ramesh, Advocate, S.R.No.28819

Crl.O.P. No.834 of 2018

KAN(CO)

RRK(03/05/2018)