

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.07.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.4637 of 2018

1.Krishnaveni

2.Kousalya

.. Petitioners
/Accused

Vs

1.State of Tamil Nadu,
Rep by the Inspector of Police,
C1-Kattoor Police Station,
Coimbatore.

2.K.Jaganathan .. Respondents/complainant Defacto
complainant

Criminal Original Petition filed under Section
482 Cr.P.C., praying to call for the records in Crime
No.1398 of 2017 by C1-Kattoor Police Station, Coimbatore,
on the file of the learned Judicial Magistrate No.II,
Coimbatore and quash the same.

For Petitioners : Mr.M.L.Joseph
for M/S.Chennai Law Associations

For Respondents : Mr.C.Iyappa Raj,
Additional Public Prosecutor for R1
Mr.S.Parthasarathy for R2

O R D E R

This Criminal Original Petition has been filed to
quash the FIR in Crime No.1398 of 2017.

2. On the complaint lodged by K.Jaganathan, the
respondent Police have registered a case in Crime No.1398
of 2017 for the offences under Sections 427,454,380 and
506(ii) IPC against Krishnaveni, for quashing which, this
petition has been filed.

3. On the directions of this Court today,
Jaganathan, the de-facto complainant and
Mr.P.Irulappan, Sub Inspector of Police, are present.

4. It is the case of the accused that the property in Door Nos.227, 228, Dr.Rajendra Prasad Road, Tatabad, 100 ft., Road, Coimbatore, belongs to the accused; Jaganathan was the tenant in the said property; the accused has filed Rent Control Proceedings for evicting Jaganathan; Jaganathan had left the shop open on 04.11.2017 and the accused had taken the articles from the said shop and kept under their safe custody; Jaganathan gave a complaint dated 20.11.2017 and thereafter, filed Crl.O.P.No.26512 of 2017 for a direction to the Police to register the FIR, in which, this Court by order dated 05.12.2017, directed Jaganathan to give a copy of the complaint dated 20.11.2017 to the Station House Officer and on receipt of the said complaint, the Station House Officer was required to register an FIR, if it discloses the commission of a cognizable offence; Jaganathan instead of giving a copy of the complaint dated 20.11.2017, gave a fresh complaint, based on which, an FIR was registered in Crime No.1398 of 2017 on 22.12.2017 for the offences Under Sections 427, 454, 380 and 506(ii) of IPC, against the accused herein, which is an abuse of process of law and therefore, the FIR should be quashed.

5. Per contra, the learned counsel for Jaganathan submitted that he was a tenant under the property in question which belongs to one Kandasamy; the said Kandasamy died leaving behind his widow, one Easwari Ammal; Easwari Ammal had inducted one Jaganathan as a tenant in Door No.227; Krishnaveni claiming herself to be the second wife of Kandasamy filed RCOP for eviction and the same is pending; Krishnaveni had high handedly evicted Jaganathan by breaking open the shop door and secreted the materials of the tenant; Jaganathan was forced to give a complaint on 20.11.2017, for which, CSR.No.504 of 2017 was given; Jaganathan filed Crl.O.P.No.26512 of 2017 for a direction to the Police to register an FIR; when Jaganathan gave a copy of the complaint dated 20.11.2017, the police had asked him to give a fresh complaint and only in those circumstances, he had given a fresh complaint, instead of giving a copy of the complaint dated 20.11.2017; Police took up investigation and registered a case in Crime No.1398 of 2017 and during the process of investigation, arrested Kousalya (A2) and recovered the secreted goods.

6. During the course of hearing, Mr.Kanagaraj, Advocate intervened and submitted that the property in question belongs to Kandasamy and after Kandasamy's death, the property devolved on his widow Eswari Ammal, however, the contention of Easwari Ammal that Krishnaveni is the second wife of Kandasamy is under dispute; Easwari Ammal had inducted Jaganathan as a tenant and that Krishnaveni and her daughter Kousalya had forcibly

dispossessed Jaganathan.

7. This Court gave its anxious consideration to the rival submissions.

8. The question is for having given a fresh complaint, instead of giving a copy of the complaint dated 20.11.2017, can an FIR be quashed ?.

9. In the opinion of this Court, this cannot be a good reason for quashing the FIR, especially after the arrest of Kousalya. The Police have recovered the entire articles belonging to Jaganathan that were secreted by Krishnaveni and Kousalya.

10. The contention of the accused that they have kept those properties in safe custody, since Jaganathan had left the shop open, does not stand to reason. No shop owner with a little amount of common sense, will keep the shop open for thieves to rob. Since there are prima facie materials in the FIR, this is not a fit case to quash the FIR. The police shall put back Jaganathan in the shop and ensure that he is not illegally dispossessed by Krishnaveni and Kausalya.

11. In the result, this Criminal Original petition stands dismissed.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

ub

To

1.The Judicial Magistrate NO-II,
Coimbatore

2.The Inspector of Police,
State of Tamil Nadu,
C1-Kattoor Police Station,
Coimbatore.

+1 C.C. to M/S.S.PARTHASARATHY Advocate SR.NO. 51720

+1 CC TO M/S.CHENNAI LAW AND ASSOCIATION SR.NO. 51988

CRL.O.P.No.4637 of 2018

ASK(21/08/2018)