

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 19.06.2018

PRONOUNCED ON : 28.06.2018

CORAM :

THE HONOURABLE MR.JUSTICE P.N. PRAKASH

Criminal Original Petition No.570 of 2018

and CrI.M.P.Nos.175 and 944 of 2018

N.Arjunan

... Petitioner/Accused No.2

Vs.

1.The Union Territory of Puducherry rep. by
The Inspector of Police
S.H.O. - D Nagar Police Station
Puducherry.

...R1/Complainant

2.S.Krishnamoorthy

...R2/Defacto Complainant

Prayer:- Petition filed under Section 482 Cr.P.C., to call for the records in Cr.No.305 of 2017 pending on the file of the 1st respondent Inspector of Police, D Nagar Police Station, Puducherry and quash the same.

For Petitioner : Mr.Abudukumar Rajarathinam
for Mr.V.S.Senthil Kumar

For R1 : Mr.Bharatha Chakravarthy
Additional Public Prosecutor,
Puducherry

O R D E R

This petition has been filed to call for the records in Cr.No.305 of 2017 pending on the file of the 1st respondent Inspector of Police, D Nagar Police Station, Puducherry and quash the same.

2. On the complaint lodged by Krishnamoorthy, the second respondent, the first respondent police have registered a case in Cr.No.305 of 2017 on 23.12.2017 under Sections 341, 386 and 506(ii) IPC r/w 34 IPC against Senthil @ Ramesh [A1] and Arjunan [A2], for quashing which, Arjunan [A2] is before this Court.

3. On a reading of the complaint given by the de facto complainant, which forms the basis for the registration of the FIR, it is seen that his wife Rajalakshmi purchased plot No.12 in a layout that was floated by Senthil @ Ramesh [A1] in the year 2006 and thereafter, she went to Singapore; when the de facto complainant and his wife came to inspect the property in the year 2008, they were shocked to find that the accused had completely fenced the entire layout and had made it into a gated community; Ramesh [A1] did not permit the de facto complainant even to enter the property and when the de facto complainant approached Ramesh [A1], he was directed to meet his father Arjunan [A2]; when the de facto complainant met Arjunan [A2], he was asked to reconvey the property to Ramesh [A1] at a rock bottom price; the property value was Rs.40 lakhs; the accused threatened the de facto complainant not to step anywhere near the property lest they should be eliminated.

4. Mr.Abudukumar Rajarathinam, learned counsel for the accused submitted that Arjunan [A2] is aged about 74 and a false case has been foisted against him, inasmuch as, for the incident that took place in the year 2008, the FIR has been registered only in 2017. He also submitted that Arjunan [A2] is ready and willing to remove the iron fence and give an undertaking that he will not ask the de facto complainant to reconvey the property. He further submitted that for the sin of his son Ramesh [A1], the father cannot be penalised.

5. The first respondent has filed a detailed counter, wherein, it is stated as follows:

"During investigation, it is revealed that the de facto complainant's wife Rajalakshmi along with five other plot owners filed complaint before the District Magistrate of Puducherry during 2009 narrating the fact that the accused A1 and A2 caused wrongful restraint by erecting iron gates at the entrance of the layout and demanding the complainants to reconvey the plots in their favour for the same price at which, they originally sold and requested necessary orders to remove the unlawful obstructions and nuisances caused by the accused A1 and A2. Further, the defacto complainant's wife Rajalakshmi also filed a complaint before the land grabbing cell at District Collector Office, Puducherry. As per the instructions of District Administration, the gate was opened on 17.12.2008 and thereafter, after some time the same was permanently closed. When they approached, the

accused persons A1 and A2 along with their associates criminally intimidated the petitioner and other plot owners by giving life threat. Since the accused A1 and A2 are known rowdy elements, having committed several murder and other body offences, the defacto complainant feared to file his complaint before police."

6. Learned Additional Public Prosecutor, Puducherry contended that Ramesh [A1], the son of the petitioner is a notorious land grabber in Puducherry and was a member of the political party, which was in power prior to the present dispensation, on account of which, he enjoyed a certain amount of illegal immunity. In the counter, the first respondent has listed 20 criminal cases ranging from murder to extortion that were registered against Ramesh [A1] from 1996 to 2017. He also submitted that Arjunan [A2] is not an ordinary person and he had always acted in league with his son in land grabbing and extortion cases and there were six criminal cases against him.

7. Refuting this contention, learned counsel for Arjunan [A2] submitted that Arjunan [A2] was acquitted in all the cases. As regards the offer made by the learned counsel for Arjunan [A2] that they would remove the fence and give an undertaking that they will not insist the de facto complainant's wife to reconvey the property, the learned Additional Public Prosecutor submitted that after the change in Government in Puducherry, several complainants from plot owners started pouring in and FIRs were registered against the father-son duo and the son was detained under the Goondas Act. He also submitted that the illegally constructed gate has been completely dismantled and on account of police action, confidence has been restored in the minds of the plot owners and therefore, the present offer is too belated.

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

9. From a conspectus of the facts obtaining in this case, it is apparent that Ramesh [A1] and Arjunan [A2] are persons with criminal antecedents, though they would have been acquitted in most of the cases. May be the witnesses were so terrified to give evidence against them that they would have managed acquittals in the prosecutions against them. There can be umpteen reasons ranging from suborning to eliminating them for the acquittals of Ramesh [A1] and Arjunan [A2] in the criminal prosecutions. It is seen that in the year 2009, the de facto complainant had moved the District Magistrate and other authorities, but to no avail. Only after there was change in

guard, the plot owners, including the de facto complainant gathered courage to lodge complaints, pursuant to which, three FIRs were registered against the father-son duo, viz., Cr.Nos.133, 305 and 306 of 2017. On a reading of the FIRs, it is seen that there are sufficient materials to implicate Arjunan [A2] and therefore, this is not a fit case to quash the prosecution at the threshold in the light of the judgment of the Supreme Court in State of Haryana v. Bhajan Lal [AIR 1992 SC 604].

Accordingly, this petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gms

To

1.The Inspector of Police
S.H.O. - D Nagar Police Station
Puducherry.

2.The Public Prosecutor
High Court, Madras.(Puducherry)
(CA Sr.No.41972 of 2018)

+1cc to Mr.V.S.Senthilkumar, Advocate Sr.41675

Cr1.O.P.No.570 of 2018

ev[col]
srg 05/07/2018

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