

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2018

C O R A M

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.O.P.Nos.14166 of 2016 and 17198 of 2017
and Crl.M.P.Nos.7204 of 2016 and 10532 of 2017

Dr.C.Kalaichelvi ...Petitioner in Crl.O.P.14166/2016

1.Dr.C.Kalaiselvi
2.Dr.T.Sivakumar
3.Dr.S.Cadir ...Petitioners in Crl.O.P.17198/2017

Vs.

1.The State
Reptd. by Inspector of Police
K-4, Anna Nagar Police Station
Anna Nagar, Chennai 600 040.

2.Dr.Arunmozhi ... Respondents in both Crl.O.Ps.

Criminal Original Petitions filed under Section 482 of Cr.P.C. to quash the First Information Report, dated 15.06.2016 registered in Cr.No.511 of 2016 on the file of the 1st respondent insofar as the petitioners are concerned.

For Petitioner : Mr.N.Ramesh
in Crl.O.P.14166/2016
For Petitioners : Mrs.Aruna Elango
in Crl.O.P.17198/2017
For R1 : Mrs.Kritika Kamal.P.
In both Petitions Government Advocate (Crl.Side)

For R2 : Mr.A.Raghunathan, Senior Counsel
In both Petitions for Mr.K.Selvakumaraswamy

C O M M O N O R D E R

These criminal original petitions have been filed to call for the records in Cr.No.511 of 2016 on the file of the 1st respondent and quash the same, insofar as the petitioners are concerned.

2. On the complaint lodged by Dr.Arunmozhi (second respondent/de facto complainant), the first respondent police have registered a case in Cr.No.511 of 2016 on 15.06.2016 for the offences under Sections 448 and 506(i) IPC against Dr.C.Kalaiselvi [A1], Dr.T.Sivakumar [A2] and Dr.S.Cadir [A3]. The allegation in the FIR is that the property bearing Door No.29, First Block, II Main Road, Anna Nagar East, Chennai 600 102 originally belonged to Dr.Thirugnanasambandam, who settled the property by way of a settlement deed dated 28.06.2010 in favour of his daughter, the de facto complainant; the de facto complainant was living in the said property with her family and that on 26.05.2016, the accused gained illegal entry into the property in order to dispossess them and threatened to kill them. Hence, the complaint and the FIR.

3. Dr.C.Kalaiselvi [A1] filed CrI.O.P.No.14166 of 2016 through Advocate Mr.N.Ramesh, under Section 482 Cr.P.C. to quash the FIR. This Court, merely ordered notice of motion on 13.07.2016 and did not grant stay of investigation. Thereafter, Dr.C.kalaiselvi, along with Dr.T.Sivakumar [A2] and Dr.S.Cadir [A3] filed a fresh petition in CrI.O.P.No.17198 of 2017 under Section 482 Cr.P.C. to quash the same FIR, through Advocate Ms.Aruna Elango, suppressing the filing of the earlier petition in CrI.O.P.No.14166 of 2016. This was brought to the notice of this Court by Mr.A.Raghunathan, learned Senior Counsel for the de facto complainant and therefore, this Court posted both CrI.O.P.Nos.14166 of 2016 and 17198 of 2017 for hearing.

4. Today, learned counsel for the petitioner in CrI.O.P.No.17198 of 2017 sought permission of this Court to withdraw this petition and he has also made an endorsement to that effect. Permission is granted. Accordingly, CrI.O.P.No.17198 of 2017 is dismissed as withdrawn. Consequently, connected miscellaneous petition is closed.

5. As regards CrI.O.P.No.14166 of 2016, Mr.N.Ramesh, learned counsel for the petitioner submitted that the parties have taken change of Vakalat on 22.01.2018. On a reading of the FIR, it is seen that there are prima facie materials for the investigation to proceed against the accused, inasmuch as it has been alleged by the de facto complainant that the accused had tried to forcibly take physical possession of the property on 26.05.2016 by breaking open the back door, in order to gain illegal entry and in that process, they had intimidated the de facto complainant. In such view of the matter, this is not a fit case to quash the FIR in the light of the law laid down by the Supreme Court in State of Haryana v. Bhajan Lal [AIR 1992 SC 604].

In the result, CrI.O.P.No.14166 of 2016 stands dismissed.
Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

gms

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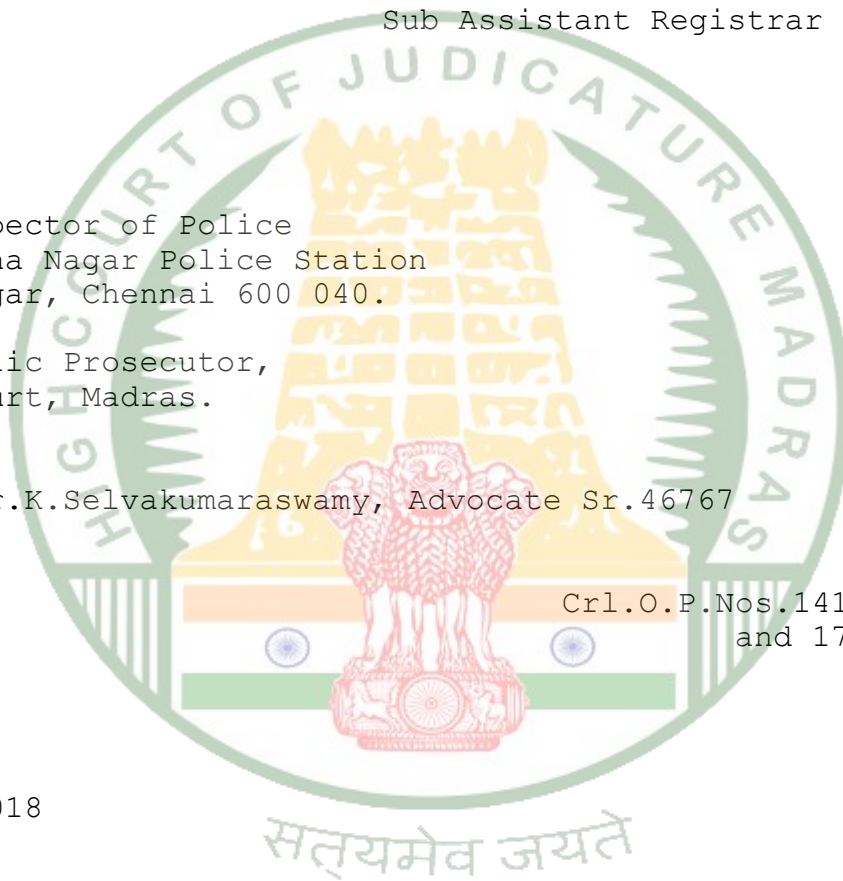
1.The Inspector of Police
K-4, Anna Nagar Police Station
Anna Nagar, Chennai 600 040.

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.Selvakumaraswamy, Advocate Sr.46767

CrI.O.P.Nos.14166 of 2016
and 17198 of 2017

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srg 3/8/2018



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