

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.04.2018

PRONOUNCED ON : 07.06.2018

CORAM :

THE HONOURABLE MR.JUSTICE P.N. PRAKASH

Criminal Original Petition Nos.11814 and 11815 of 2018
and Crl.M.P.Nos.6228 to 6231 of 2018

K.Elumalai ... Petitioner/A2 in Crl.O.P.11814/2018
E.Karpagam ... Petitioner/A2 in Crl.O.P.11815/2018

Vs.

Union of India rep. by its
Inspector of Police
Odiansalai Police Station
Puducherry. ... Respondent/Complainant
in both Crl.O.Ps.

Prayer:- Petitions filed under Section 482 Cr.P.C., to call for the records relating to the proceedings in PRC No.05 of 2018 on the file of the Judicial Magistrate II, Puducherry and quash the same in respect of the petitioners alone.

For Petitioners : Mr.I.Abrar Md.Abdullah
For Respondent : Mr.Bharathachakravarthy
Additional Public Prosecutor
(Puducherry)
For de facto complainant : Mr.Prakash Adiyapadham

C O M M O N O R D E R

These petitions have been filed to call for the records relating to the proceedings in PRC No.05 of 2018 on the file of the Judicial Magistrate II, Puducherry and quash the same in respect of the petitioners alone.

2. On the complaint lodged by Marie Jacques, a French national, the respondent police registered a case in Cr.No.101 of 2017 and after completing the investigation, have filed a Final Report in PRC No.5 of 2018 before the Judicial Magistrate No.II, Puducherry for the offences under Sections 420, 120-B, 427, 448, 324, 395, 294(b), 506(ii) IPC r/w 149 IPC against Huqo Dexine and 15 others, including the petitioners herein, who have been shown as A2 and A3. These applications have been filed for quashing the said prosecution.

3. Mr.Abrar Md.Abdullah, learned counsel appearing for the petitioners/accused submitted that there are no prima facie materials against the petitioners for the prosecution to proceed

further and hence, the same should be quashed by this Court in exercise of its inherent powers.

4. During the hearing, Mr. Prakash Adiyapadham, learned counsel entered appearance for Marie Jacques, the de facto complainant, and stated the entire circumstances under which the prosecution has been launched. Strangely, the petitioners have not impleaded Marie Jacques, the de facto complainant as respondent in the quash applications and had impleaded only the police as respondent. It is not known as to how the Registry numbered these petitions when instructions have been given to the effect that the de facto complainant/victim should be shown as a respondent in quash applications. This aspect will be dealt by this Court on the administrative side.

5. The law relating to quashing of a criminal prosecution has been settled by a catena of judgments of the Supreme Court beginning with State of Haryana and others vs. Bhajan Lal and others [1992 Supp (1) SCC 335]. Marie Jacques, a French national, is the daughter of Saint Jacques Antoine, who was residing in Puducherry and was owning the house bearing No.11, Labourdannais Street, Puducherry. He also had several properties all over Puducherry. On 21.09.2006, Jacques Antoine, was murdered and a case in Cr.No.209 of 2006 was registered against one Destin, in which prosecution, Karpagam [A2] was also shown as an accused. Karpagam [A2] filed a quash application in CrI.O.P.No.16374 of 2011 contending that the prosecution against her is an abuse of process of law. It appears that this Court quashed the prosecution in respect of Karpagam [A2] in the murder case. However, it came to the knowledge of Marie Jacques that Karpagam [A2], her husband Elumalai [A3], one Hugo Dexine [A1] and Destin had illegally transferred huge properties belonging to her late father by fabricating various documents and only thereafter, her father was murdered.

6. It is the case of the de facto complainant that when she came to India to take charge of her father's properties, all the accused, including the petitioners herein, were attempting to eliminate her also and were intimidating her continuously. The specific allegation against the petitioners is that after the elimination of Saint Jacques Antoine, Karpagam [A2] has executed a Power of Attorney, vide Document no.793 of 2013 dated 01.08.2013 in respect of the properties of Late Saint Jacques Antoine in favour of one Ali Jinnah. Notwithstanding that, she has also executed another Power of Attorney, vide Document no.1791 of 2015 dated 24.07.2015 in favour of one Thyagarajan. Thus, the present prosecution against the petitioners is with regard to the offences of land grabbing.

7. From the arguments advanced across the Bar, it appears to this Court that, the accused in this case are not simple people,

but belong to a gang which identifies rich French nationals with huge properties in Puducherry and usurps them by creating fake documents.

8. This Court finds sufficient materials against the petitioners for framing charges. Hence, these petitions are dismissed, with a direction to the Judicial Magistrate No.II, Puducherry to complete the committal proceedings in PRC No.5 of 2018 expeditiously. If the accused do not co-operate, they can be remanded to custody under Section 209 Cr.P.C. and the case can be committed to the Court of Sessions. If any accused who is on bail absconds, a fresh FIR can be registered u/s 229-A IPC. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gms
To

1.The Inspector of Police
Odiansalai Police Station
Puducherry.

2.The Judicial Magistrate II,
Puducherry.

3.The Public Prosecutor(Pondicherry)
High Court, Madras.

+1 cc to the Government Pleader (Pondy) vide sr 35625

+1 cc to M/s.M.Baskaran Advocate sr 35263

Cr1.O.P.Nos.11814 and 11815 of 2018

gmi (co)
aa14/06/2018

WEB COPY