

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.04.2018

PRONOUNCED ON : 18.04.2018

CORAM :

THE HONOURABLE MR.JUSTICE P.N. PRAKASH

Criminal Original Petition Nos.2746, 9654 and 10211 of 2018

and Crl.M.P.Nos.1124, 4975, 5579 and 5201 of 2018

Jothi ... Petitioner in Crl.O.P.2746/2018
Rahmathulla ... Petitioner in Crl.O.P.9654/2018

1.Salim Basha @ Salim @ Valantha Salim
2.Billal @ Mohammed Billal
3.Syed Azarudeen @ Munna ... Petitioners in Crl.O.P.10211/2018

Vs.

1.State represented by
The Inspector of Police
B-2 R.S.Puram Police Station
Coimbatore City
Coimbatore.

2.C.Sundaram ... Respondents in Crl.O.P.2746/2018

1.State represented by
The Inspector of Police
B-2 R.S.Puram Police Station
Coimbatore City
Coimbatore.

2.C.Sundaram
3.Ananda Narayanan
4.Manikandan ... Respondents in Crl.O.P.9654/2018

1.State represented by
The Inspector of Police
B-2 R.S.Puram Police Station
Coimbatore District.

2.Sundaram ... Respondents in Crl.O.P.10211/2018

Criminal Original Petitions filed under Section 482 Cr.P.C., to call for the records in Cr.No.1356 of 2017 on the file of the 1st respondent police and quash the same.

Crl.O.P.No.2746 of 2018:

For Petitioner : Mr.B.Nambi Selvan
For R1 : Mrs.Kritika Kamal, P.
Government Advocate (Crl.Side)
For R2 : Mr.S.Annamalai

Crl.O.P.No.9654 of 2018:

For Petitioner : Mr.B.Nambi Selvan
For R1 : Mrs.Kritika Kamal, P.
Government Advocate (Crl.Side)
For R3 & R4 : Ms.P.T.Asha
for M/s Sarvabhauman Associates

Crl.O.P.No.10211 of 2018:

For Petitioner : Mr.P.Kumaresan
For R1 : Mrs.Kritika Kamal, P.
Government Advocate (Crl.Side)
For R2 : Ms.P.T.Asha
for M/s Sarvabhauman Associates

C O M M O N O R D E R

These petitions are filed to call for the records in Cr.No.1356 of 2017 on the file of the 1st respondent police and quash the same.

2. On the complaint lodged by Sundaram, the first respondent police have registered a case in Cr.No.1356 of 2017 on 12.12.2017 under Sections 457 and 380 IPC against unnamed, but identifiable suspects numbering 4 or 5. The crux of the allegation in the complaint is that, Sundaram was the Watchman in a shopping complex belonging to one Manikandan; that in one portion, Manikandan is having his Law Firm; that in the night hours of 12.12.2017, 4 or 5 persons were found removing all the articles from the premises of the Law Firm and were vacating it; that when the Watchman questioned them, they threatened him and told him that they are vacating the portion and keeping the things elsewhere; that sensing that something was wrong, the Watchman informed Manikandan and on his instructions, lodged a complaint, based on which, FIR has been registered.

3. Learned counsel for the accused submitted that the building in question does not belong to Manikandan and that it belongs to one C.P.Natarajan, father of Ravichandran [A1] and Ananthakumar [A2]; that after the death of Natarajan, the lease has expired; therefore, the premises was vacated and hence, the FIR is clearly an abuse of process of law.

4. Per contra, learned counsel appearing for the de facto complainant narrated the history of the litigation between the de facto complainant and Natarajan by submitting that the property was taken from Natarajan in the year 2006 on lease deed dated 13.09.2006 which was extended from time to time; that Natarajan, tried to forcibly evict Manikandan from the premises; that Manikandan filed a suit in O.S.No.1117 of 2013 before the District Munsif, Coimbatore, in which, injunction was ordered against Natarajan from illegally interfering with the possession of the property; that Natarajan filed C.M.A.Nos.25 and 26 of 2013 before the Sub Court, Coimbatore, which were dismissed; that Ravichandran [A1] and Ananthakumar [A2] have already been shown as defendants in O.S.No.1117 of 2013; that when the order of injunction was in force, Ravichandran [A1] and Ananthakumar [A2] had engaged professional gangsters to forcibly vacate Manikandan from the premises.

5. Mrs.Kritika Kamal, learned Government Advocate [Crl.Side] submitted that after the registration of the FIR, preliminary investigation was conducted by the police and it was found that Manikandan was in possession of a portion in the complex and was having his Law Firm and that Ravichandran [A1] and Ananthakumar [A2], with the help of some notorious gangsters have forcibly removed the articles from the Law Firm.

6. This Court perused the case diary and found that the persons engaged by Ravichandran [A1] and Ananthakumar [A2] and who have been arrested by the police, have several previous cases against them. That apart, these hirelings have removed the articles in the premises that was in the occupation of Manikandan since 2006 in order to illegally evict him. When this was objected to by Sundaram, the Watchman, the hirelings have threatened him. Hence, a full fledged investigation by the police is essential in this case to bring the guilty to book. The facts obtaining in this case do not pass muster the law laid down by the Supreme Court in State of Haryana v. Bhajan Lal [AIR 1992 SC 604] for quashing the FIR.

7. In such view of the matter, the FIR against the accused cannot be quashed at the threshold.

In the result, these petitions are dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

gms

To

1.The Inspector of Police
B-2 R.S.Puram Police Station
Coimbatore City
Coimbatore.

2.The Public Prosecutor
High Court, Madras.

+3cc to Mr.B.NAMBISELVAN, Advocate, S.R.No.28684 to 28686

+3cc to Mr.SARVABHAUMAN ASSO. Advocate,
S.R.No.28948, 28946 & 28949

CrI.O.P.Nos.2746, 9654 and 10211 of 2018

KAN (CO)
TR (25/04/2018)

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