

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2018

CORAM

THE HONOURABLE Mrs.JUSTICE R.HEMALATHA

CRL.O.P.No.19258 of 2014

and

M.P.Nos.1 & 2 of 2014

1.S.Manikandanarayanamy
2.S.Rajagopal
3.R.Vijayakannan
4.M.Saravanakumar
5.S.Manjula
6.S.Andal
7.R.Sankaranarayanan ... Petitioners

Vs.

1.The Inspector of Police,
V-7, Nolambur Police Station,
Chennai - 37.
2.T.Panneer Selvam ... Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to quash the FIR in Crime No.1324 of 2014 pending investigation on the file of the 1st respondent police.

For Petitioner : Mr.K.Thilageswaran
For R1 : T.Shunmugarajeswaran
Government Advocate (Crl.Side)

For R2 : Mr.AR.L.Sundaresan (Senior Advocate) for Yogesh Kannadasan

O R D E R

The present petition has been filed under Section 482 Cr.P.C to call for the records in Crime No.1324/2014 of Nolambur Police Station and quash the same.

2. Heard the learned counsel appearing for the petitioner, the learned counsel appearing for the defacto complainant/2nd respondent and the learned Government Advocate (Crl.Side) appearing for the State.

3. The petitioner is the accused in Crime No.1324/2014 on the file of the Nolambur Police Station, Chennai.

4. The defacto complainant/2ndrespondent lodged a complaint with the Inspector of Police, Nolambur Police Station, Chennai against the petitioners herein for the alleged offences punishable under Sections 406, 420 and 506 (2) IPC.

5. The case of the 2nd respondent/defacto complainant is that he purchased a property bearing Door No.62, VGNO Zodiac Villa, Aquarius Block, F-3, Devadoss Street, Mugappair East, Chennai-37 and since he could not get a bank loan in his name, he requested his cousin Mr.S.Manikandanarayanasaamy/1st accused to get a housing loan from IDBI Bank, T.Nagar Branch in his name. It was also agreed between them that the defacto complainant would be paying the equated monthly installments of Rs.46,000/- towards the said loan and as per the oral agreement the monthly installments were paid by the defacto complainant till last year and the defacto complainant also occupied the house. It is also contended in the First Information Report that the 1st accused requested the defacto complainant to pay the balance loan amount since he wanted to purchase a house in his name by availing a bank loan and that the balance loan amount of Rs.15,00,000/- was paid in 4 installments. According to the complainant, when he requested the 1st accused to transfer the property in his name, the 1st accused refused to execute the sale deed in his name and all the accused threatened him with dire consequences.

6. Mr.K.Thilageswaran, learned counsel appearing for the petitioner would contend that the case is purely civil in nature and that the 1st petitioner has also instituted a civil suit in O.S.No.392/2013 before the District Munsif, Ambattur to evict the defacto complainant from the said house and the suit is still pending. He would further contend that the entire FIR does not disclose any offence and therefore liable to be quashed.

7. He relied on the decision in State Bank of Haryana Vs Bhajanlal reported in 1992 Supplimentary (1) Supreme Court Cased 335 and contended that where the allegations made in the First Information Report or the complaint, are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out a case against accused, the FIR/complaint is liable to be quashed.

8. Per contra, Mr.A.R.L.Sundaresan, learned Senior Advocate appearing for the defacto complainant would contend that the 1st accused committed offences punishable under Sections 406, 420 IPC and that he along with the other accused threatened him with dire consequences. He would further contend that at this stage the Court cannot go into the veracity of the complaint to conclude that the same is liable to be quashed under Section 482 Cr.P.C.

9. The learned Government Advocate (Crl.Side), would contend that the investigation is still pending since an order of stay was granted by this Court.

10. The complaint dated 03.07.2014 discloses cognizable offences and at this stage, it would not be appropriate for this Court to apply spokes in the wheels of the investigation. Further more, this Court cannot conduct a roving enquiry into the allegations made by both the parties to find out the truth or otherwise of the allegations. Therefore, I do not see any reason to quash the FIR.

11. In the result, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

dss
To

1. The Inspector of Police,
V-7, Nolambur Police Station,
Chennai - 37.

2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.Thilageswaran, Advocate Sr.44413
+1cc to Mr.Yogesh Kannadasan, Advocate Sr.44979

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srg 01/08/2018