

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 03.12.2018	Delivered on 06.12.2018
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CORAM:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
Crl.O.P.Nos.24434 & 24437 of 2018
and
Crl.M.P.Nos.13881 & 13885 of 2018

C.P.Senthil Raja

..Petitioner
in both Crl OPs

.Vs.

1.The State,
Represented by its Inspector of Police,
Abiramapuram Police Station,
Chennai.
(Crime No.425 of 2018)

2.K.A.Parthiban

...Respondents
in both Crl OPs

PRAYER in Crl.O.P.No.24434 of 2018: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records of the proceedings of the 1st respondent in FIR 425 of 2018 dated 06.07.2018, on the file of the 1st respondent police and to quash the same.

PRAYER in Crl.O.P.No.24437 of 2018: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records of the proceedings of the 1st respondent in FIR 240 of 2018 dated 27.09.2018, on the file of the 1st respondent police and to quash the same.

For Petitioner : Mr.T.Mohan
for Mr.P.Krishnan
(both Crl.OPs)

For Respondents: Mr.M.Mohamed Riyaz, APP for R1
(both Crl.OPs)

Mr.P.Wilson, senior counsel for R2
for Mr.R.Arvind

COMMON ORDER

Cr1.O.P.No.24434 of 2018 has been filed to quash the F.I.R in Cr.No.425 of 2018 registered by the respondent Police for an offence under Section 447, 342, 294(b), 386 and 506(ii) IPC. Cr1.O.P.No.24437 of 2018 has been filed to quash the FIR in Cr.No.240 of 2018, registered by the respondent Police for an offence under Section 406, 420, 465, 468 and Section 471 IPC.

2.In both the Criminal Original Petitions, the petitioner has been added as A-2 and the de-facto Complainant is the same in both the cases.

3.A reading of the Complaint would show that by a lease and license agreement dated 06.11.2017, the de-facto Complainant entered into a lease for a period of 11 months with A-1 for monthly rent of Rs.1 lakh and Rs.40,000/- towards amenities and permitted A2 to allow the petitioner and his family to occupy the property for residential purposes. After the expiry of the period, the petitioner did not pay the monthly rent and therefore the lease was terminated on 09.03.2018. The petitioner entered into another agreement with A-1, without the knowledge of the de-facto Complainant, on 09.11.2017, as if the lease period was extended for five years.

4.While so on 23.05.2018, at about 3.10 p.m., when the de-facto Complainant was at Office, petitioner along with others entered the Office and started abusing the de-facto Complainant and also threatened him with dire consequences and he also demanded a sum of Rs.40 lakhs in order to give vacant possession of the property. A Complaint was given in this regard before the Abhiramapuram Police Station, and an FIR was registered by the said Police.

5.Subsequently when the de-facto Complainant came to know about the agreement dated 09.11.2017, one more Complaint was given before the Royapettah Police Station, and an FIR was registered in Cr.No.240/2018.

6.The learned counsel for the petitioner would submit that there is a landlord tenant dispute in this case and the petitioner has filed O.S.No.3201 of 2018, before the XVIII Assistant City Civil Court, Chennai for the relief of permanent injunction restraining the defendants from in any way interfering with the peaceful possession and enjoyment of the property and when the suit summon was received by the de-facto Complainant, a false Complaint was given against the petitioner. The learned counsel would further rely upon various documents and communications, in order to substantiate his argument that a dispute which is purely civil in nature has been given a

criminal colour, and the very Complaint itself is an abuse of process of law. The learned counsel would further submit that even if the allegations are taken as it is, it does not make out an offence as alleged in the F.I.R.

7. Per contra, Mr. P. Wilson, learned senior counsel for Mr. R. Arvind, appearing on behalf of the 2nd respondent would submit that this petitioner is a habitual offender who regularly approaches innocent land owners in order to grab the property and there are already three Complaints pending in this regard. Therefore, the learned senior counsel would submit that the allegations made in the Complaint requires investigation by the respondent Police. The learned Senior counsel would further submit that when this petitioner approached this Court seeking for Anticipatory Bail, the same was dismissed by this Court by an order dated 10.10.2018, wherein this Court had taken into consideration the conduct of the petitioner and subsequent to the dismissal, the petitioner has approached the Court seeking to quash the FIR. The learned senior counsel would further submit that the 2nd respondent is the owner of the property and behind the back of the owner of the property, the petitioner and A-1 have created the document as if the lease period was extended by five years and thereby an attempt was made to grab the property. The learned senior counsel further submitted that the petitioner along with others came to the Office of the 2nd respondent and abused him with a filthy language and also warned him with dire consequences and also demanded for the payment of Rs.40 lakhs in order to vacate the premise. The learned senior counsel would further submit that the allegations made in the Complaint makes out a prima facie cognizable offence and the materials relied upon by the petitioner cannot be taken into consideration by this Court while deciding a petition seeking to quash the F.I.R.

8. The learned Additional Public Prosecutor would submit that a cognizable offence has been made out in the Complaint given by the 2nd respondent and therefore the respondent Police have registered an FIR and are investigating the case. The learned counsel would further submit that whatever materials are relied upon by the petitioner, can be submitted before the Police in the course of investigation and the same will be considered. This Court in exercise of its jurisdiction under Section 482 of Cr.P.C cannot conduct a mini investigation and interfere with the FIR.

9. This Court has carefully considered the submissions made on either side. This Court is of the considered view that the allegations made in the Complaint given by the 2nd respondent, prima facie makes out a cognizable offence. The learned counsel for the petitioner wants this Court to look into certain

materials for the purpose of coming to a conclusion that the entire Complaint is an abuse of process of law. There are certain factual issues raised by both the sides.

10.The Hon'ble Supreme Court of India the judgment in Gunmala Sales Private Limited .Vs. Anu Mehta and Others reported in [(2015) 1 SCC 103] has categorically held that the High Court cannot conduct a mini trial or a roving enquiry in a 482 petition. If this Court proceeds to go into the factual disputes raised by the respective parties, this Court will be virtually getting into an area which is exclusively within the domain of investigation. By doing so, this Court will be contravening the judgment of the Hon'ble Supreme Court mentioned supra.

11.The suit filed by the petitioner and which is pending in O.S.No.3201 of 2018, cannot be a bar for registering an FIR, if an independent cognizable offence has been made out. In every case, just because a suit has been filed, the registration of an FIR, cannot be held to be an abuse of process. It will always depend upon the facts and circumstances of each case. In the considered view of this Court, the suit that is pending before the concerned Civil Court, has nothing to do with the incidents which has resulted in the registration of two FIRS against the petitioner and others.

12. Whatever materials were attempted to be placed before this Court by the petitioner can always be placed by him before the respondent Police in the course of investigation. The respondent Police shall consider the same and will arrive at a conclusion, at the time of filing the report.

13.Considering the fact that the FIR has been registered very recently and the case is now in the initial stage of investigation, it is premature to decide whether the offence has been made out, based on the materials placed by the petitioner. The respondent Police must be permitted to proceed further with the investigation by collecting all the materials and thereafter come to the conclusion. Therefore, this Court does not want to interfere with the investigation at this stage.

In the result, both the Criminal Original Petitions are dismissed. Consequently, connected miscellaneous petitions are dismissed.

Sd/-
Deputy Registrar

//True Copy//
Sub Assistant Registrar

kp

To

1. The Inspector of Police,
Abiramapuram Police Station,
Chennai.
2. The Public Prosecutor,
High Court of Madras,
Madras.

+1cc to Mr.P.Krishnan, Advocate, S.R.No.84088

+2cc to Mr.R.Arvind, Advocate, S.R.No.84271(14/12/2018)

+2cc to Mr.P.Selvaraj, Advocate, S.R.No.84272(14/12/2018)

Cr1.O.P.Nos.24434 & 24437 of 2018

CS/07/12/2018



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