

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 15.10.2020

Pronounced on : 28.10.2020

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.O.P.No.25525 of 2016
and Crl.MP.No.12398 of 2016

M/s. SRM Travels Pvt. Ltd.,
Represented by its Managing Director
Shri.P.Ravi Pachamuthu
S/o. Dr.Paari Vendhar alias T.R.Pachamuthu
No.100, Jawaharlal Nehru Road
Koyambedu
Chennai.

..Petitioner/ Accused

Vs.

1. The State of Tamil Nadu
Rep by the Inspector of Police
CCB-I, Egmore
Chennai.

..Respondent/Complainant

2.U.Vijaya

..Respondent/
Defacto complainant

Criminal Original Petition filed under Section 482 Cr.P.C.,
to call for the records connected with registration of FIR in
Crime No.349/2016 on the file of CCB-I, Egmore, Chennai and
quash the same as far as it pertains to the petitioner herein.

For Petitioner : Mr.V.Raghavachari
for Mr.R.Rajarajan

For Respondents: Mr.L.Charles Premkumar
Government Advocate [Crl Side] for R1
Mr.C.S.S.Pillai for R2

ORDER

This Criminal Original Petition has been filed to quash the
FIR in Crime No.349/2016 on the file of CCB-I, Egmore, Chennai,
as concerning the petitioner alone.

2. On a complaint lodged by Vijaya (second respondent /
defacto complainant), the first respondent police registered a

case in Crime No.349/2016 on 09.11.2016, for the offences under Sections 465, 467, 468, 471, 420, 120B IPC., against Indirani [A1], Gopinath [A2], Harikumar [A3], Kumar [A4], Ravi Pachamuthu [A5] and others, for quashing which, Ravi Pachamuthu has filed the present petition under Section 482 Cr.P.C.,

3. Heard Mr.V.Raghavachari, learned counsel appearing for Mr.R.Rajarajan, counsel for the petitioner, Mr.L.Charles Premkumar, learned Government Advocate [Crl. Side] for the first respondent and Mr.C.S.S.Pillai, learned counsel for the second respondent.

4. Before advertng to the rival submissions, it may be necessary to give a brief account of the allegations in the FIR : It is the case of the defacto complainant that the property measuring 0.25 ares in T.S.No.1 of 2017 [Survey Nos.40/2 and 40/6] in Koyambedu Village belongs to her; one Indirani and her son Gopinath created forged documents not only in respect of their lands, but also in respect of the adjacent lands belonging to her brother-in-law A.V.K.Raja, one Daisy Rani, one Madhava Rao, one Srinivasa Rao, one Mahesh Raja, one Selvaganesh Raja, one Suresh Surana and handed over the properties to M/s. SRM Travels runs by Ravi Pachamuthu [A5] on 13.11.2015 for parking their buses and thereby, they have committed acts of land grabbing.

5.1 Mr.V.Raghavachari, learned counsel appearing for the petitioner submitted that the said Daisy Rani, whose name figures in the present FIR, had also lodged a complaint with the same allegations, based on which, a case in Crime No.72/2016 was registered by the Inspector of Police, K11, CMBT Police Station, Chennai, and that case has now been transferred to CCB, in which, this petitioner has been shown as an accused.

5.2 Mr.V.Raghavachari, learned counsel took great pains in gleaning through the various orders that were passed by this Court in connection with Crime No.72/2016, including the averments in the suit in C.S.No.638/2016 that was filed by M/s.SRM Transports India Pvt. Ltd., before this Court against 15 defendants. The learned counsel's contention is that M/s.SRM Travels required a large extent of lands for parking their buses near the Koyambedu bus terminal and so they obtained lease of the land in question from two sources viz., a) Umapathy and b) Indirani and Gopinath duo and when they came to know that there was trouble in Indirani - Gopinath's title, they came forward to quit the property.

5.3 Mr.V.Raghavachari also contended that Umapathy is none other than the husband of Vijaya (defacto complainant herein) and that M/s.SRM Travels are paying daily rent to Umapathy. The learned counsel for the petitioner also took this Court to the order of this Court dated 15.09.2016 in CrI.O.P.No.16580 of 2016, wherein in paragraph No.8, it has been recorded as under :

"8. This Court cannot go into these disputed question of facts in a petition under Section 482 Cr.P.C. Mr.B.Kumar and Mr.ARL Sundaresan, learned Senior Counsels submitted that M/s.SRM Travels is ready to quit from the place leaving the others to resolve the dispute among themselves. Recording their submission, this Court directs M/s.SRM Travels to handover the property forthwith to Indirani and Gopinath, who had put them in possession."

He also took this Court to the findings of this Court in the order dated 06.10.2016 in CrI.O.P.No.20264 of 2016, in which, Ravi Pachamuthu [the petitioner herein], was granted anticipatory bail by this Court in Crime No.72/2016, which came to be registered by the respondent police, based on the complaint lodged by Daisy Rani. It is relevant to extract below the portion of the said order :

"3. They fairly conceded that the petitioner has vacated the property belonging to the said Daisy Rani, situate at Old Survey No.19 and left the matter for consideration of this Court."

6. Refuting the aforesaid contentions, Mr.C.S.S.Pillai submitted that the petitioner had taken a small portion of the total land from Umapathy on daily rent basis for parking their buses. Umapathy is the husband of Vijaya; Vijaya also owns lands adjacent to the lands owned by her husband Umapathy; that the lands owned by Vijaya was not given to M/s.SRM Travels at all but they have usurped them; similarly, Daisy Rani, Madhava Rao, Srinivasa Rao, Mahesh Raja, Selvaganesh Raja and Suresh Surana also owned certain extent of lands, adjacent to the lands of Vijaya; that Indirani - Gopinath group created false documents as if they are the owners of the lands and entered into an agreement with M/s.SRM Travels, on the strength of which, SRM occupied all the lands of the above said persons and started parking their vehicles; in this connection, Daisy Rani gave a complaint in respect of her land being occupied by M/s.SRM Travels illegally, based on which, the FIR in Crime No.72/2016 was registered and the investigation is pending; when the police tightened the noose around the petitioner, he approached this Court for anticipatory bail and came forward to give up the land of Daisy Rani and also agreed to pay Rs.8 lakhs

for having caused damage to a compound wall; however, the petitioner is making it appear as if they have completely vacated from the entire place, whereas, the petitioner is still in the illegal occupation of Vijaya's land, as they are claiming lease hold right from Indirani - Gopinath duo who are bogus individuals.

7. The respondent police have filed a counter affidavit, wherein in paragraph Nos.7 and 8, it is stated as under :

"7. It is submitted that the investigation reveals that the fake patta which was created by the accused persons is not genuine and the same was not issued by the Tahsildar. Originally, the properties situate in Old S.Nos.40/2 & 40/6, Koyambedu Village belongs to Chennai Metropolitan Water Supply & Sewerage Board, Chennai. The new survey numbers, which were mentioned in the fake patta i.e., S.No.1/17 is originally belongs to the properties of Daisay Rani and the de facto complainant and others. So, the accused persons had colluded with each other had fraudulently created fake patta by mentioning Old.S.Nos.40/2 & 40/6 [properties belongs to CMWSS] and New Town survey number 1/17 [which belongs to the properties of the defacto complainant and others].

8. It is submitted that the respondent police registered the case, investigated the same in a free, fair and impartial manner. At the preliminary stage of investigation, the petitioner / accused got interim stay in all further proceedings of this case. Due to the stay granted by this Hon'ble High Court, we could not able to proceed further investigation of this case, since, this case is under investigation from 2016 onwards. Hence, it is just and necessary to vacate the interim stay granted by this Hon'ble High Court."

8. This Court has carefully considered the rival submissions.

9. SRM is not a nondescript institution, but a mammoth one, and they are into every possible business under the sun. They run a University, Colleges, Bus transport, T.V. Channel, Hospitals, medical college and are also in politics. The father of the petitioner is a sitting Member of the Parliament. Thus, Vijaya, a David is fighting against SRM, a veritable Goliath (David & Goliath are Old Testament characters). It is Vijaya's case that SRM took on lease, her husband's land on daily rent basis, but usurped all the lands around it including her land and when she approached them, they claimed that they have taken her land from Indirani-Gopinath duo.

10. Mr.V.Raghavachari, learned counsel vehemently contended that SRM had vacated the lands of Vijaya, in compliance with the orders passed by this Court, as stated above. Therefore, on 06.10.2020, this Court passed the following order :

During the course of hearing, learned counsel for the petitioner submitted that the petitioner is in occupation of only the land that was leased to Umapathi and that they had long back vacated the land allegedly belonging to Vijaya and others.

2. Accordingly, the petitioner is directed to file such an affidavit after serving a copy of it on the learned Government Advocate (Crl. Side) as well as the learned counsel for the second respondent along with photographs.

3. It is open to the first respondent/police to proceed with the investigation in Crime No.72 of 2016, since there is no stay in respect of that."

11. In response to the above order, the petitioner filed an affidavit dated 15.10.2020, wherein he has given all irrelevant stories, but has not stated the extent of land belonging to Umapathy that is in the occupation of SRM and whether the land belonging to Vijaya was handed over to her. There is no answer to this simple and straight-forward question posed by this Court. Had the petitioner satisfied this Court that he had handed over Vijaya's land to her, this Court would have had no hesitation in quashing the FIR as against the petitioner, and directing the police to proceed with the investigation as against the other accused who are involved in the crime of fabricating the land records. In the counter filed by the police, it is stated that the police are in the process of conducting a thorough investigation in this case in order to find out whether the petitioner was the brain behind the criminal activities of Indirani-Gopinath duo for fabricating the land records. The police have collected sufficient materials to show that the accused had created a fake patta by manipulating the survey numbers. The direct and ostensible beneficiary of the fabrication of the documents is the petitioner, because he is parking his buses in the lands that are not under his ownership and is reaping benefits.

12. In such view of the matter, it would be a travesty of justice if the FIR in Crime No.349/2016 on the file of CCB-I, Egmore, Chennai, is quashed at the threshold. The facts obtaining in this case do not pass muster the parameters laid down by the Supreme Court in the State of Haryana Vs. Bajanlal [AIR 1992 SC 604] for quashing an FIR. Hence, this Criminal

Original Petition stands dismissed. The police is directed to conduct thorough investigation in this case along with the case in Crime No.72/2016 and take the matter to its logical conclusion. Consequently, connected miscellaneous petition is dismissed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:

1. The Inspector of Police
CCB-I, Egmore
Chennai.

2. The Public Prosecutor
High Court, Madras.

+1cc to M/s.R.Rajarajan, Advocate in Sr.34999

Crl.O.P.No.25525 of 2016

MTI (CO)
RV(27/11/2020)



WEB COPY