

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.08.2020

PRONOUNCED ON : 27.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.7360 of 2018

T.Thillainayagam

... petitioner
/Accused No.5

Vs.

1.The Union Territory of Puducherry
rep.by the Inspector of Police,
S.H.O-D Nagar Police Station,
Puducherry,
Cr.No.36 of 2018.

....1st Respondent/Complainant

2.N.Ravindran

....2nd Respondent
/Defacto complainant

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in Crime No.36 of 2018 pending on the file of the 1st respondent/Inspector of Police, D.Nagar Police Station, Puducherry and quash the same.

For Petitioner : Mr.V.S.Senthil Kumar
For Respondent : Mr.Bharatha Chakravarthy
Additional Public Prosecutor
Mr.R.Saravanan for R2
: R.Saravanan

O R D E R

The petitioner, who is A5 in Crime No.36 of 2018 for offence under Sections 341, 452, 364 (a), 423, 386, 506(ii) r/w 34 IPC, has filed this quash petition.

2. The case of the prosecution is that the defacto complainant is the wife of the respondent herein/Ravindran. The respondent, who retired from Jimper Medical Hosiptal, had purchased a housing plot in the name of the defacto complainant

from the accused/A1 to A3 on 31.01.2005 by document No.413/2005. After getting permission and approval from the concerned department, the respondent constructed a house on 1350 sq.ft and the respondent was living with his wife and children in the house. During the year 2008, one Arjunan/A2 had put up a gate and closed the common pathway, which was used by the defacto complainant and the residents therein. Further, they were threatened and forced to sell back the land which they have purchased from Senthil @ Ramesh/A1 to A3, who is the wife of A2. A1 being a notorious criminal, was having several criminal cases. In order to get back the land, A1 brought his associates and threatened the defacto complainant and other residents. Several complaints were sent to the Revenue Authorities and Police but no action was taken, which embolden the accused. Many residents were chased away by the accused from the said lay out. Thereafter, in the year 2017, on the complaint, the lieutenant Governor had visited the place and instructed the concerned officials to remove the encroachments and give the land to the concerned persons. Thereafter, a complaint was registered, investigation completed and charge sheet filed. However, charge sheet was not taken on file.

3. The contention of the petitioner is that the petitioner is a Senior Citizen and document writer, who is having a license bearing No.40 of 1980. The petitioner is no way connected with the other accused/A1 to A3, except being a document writer. In this case, complaint has been lodged, after nine years of the occurrence. The reason given for delay is unacceptable. During this period, there have been change of Government and change of officials. Further, the defacto complainant is a retired Official from Jimper Hospital. Since the value of the property had increased several fold, the defacto complainant, after selling the property, has taken such stand now. The petitioner, except being the document writer, has not played any role in this case. Further, he submitted that the defacto complainant purchased the property in his wife's name, which was registered as document No.413/2005 on 31.01.2005 before the Sub-Registrar Office, Ulavarkarai. Thereafter, the defacto complainant had re-conveyed the property to the accused/A1 to A3 on 27.07.2009 by document No.2406/2009 before the Sub-Registrar, Oulgaret. The petitioner is not a signatory to the document except being a document writer. The complaint has not been given in the year 2009. Further, on reading the entire complaint, it is seen that in the last line, there is mentioning about this petitioner. This alone is not sufficient to rope the petitioner with other accused namely A1 to A3. He further submitted that in this case, FIR was registered in the year 2018 and till date, charge sheet is not filed. Hence, he prayed for quashing of the complaint.

4. The learned Additional Public Prosecutor submitted that in this case, prime accused/Senthil @ Ramesh is a notorious criminal, who was having several murder cases and criminal cases to his credit. A2/Arjunana and A3/Kumari are the father and mother of A1. The then Sub-Registrar, Olugarate is A4 and the petitioner is A5. During the year 2005, the said Senthil @ Ramesh/A1 sold the property to the defacto complainant's husband on 31.05.2005. The defacto complainant's husband and several others, who were retired Government Officials, purchased the plots with their hard earned money. After some time, in the lay out, A1 and A2 along with their henchmen put up a gate and not allowed the defacto complainant and other residents to use the common pathway. Further, they threatened the residents to re-convey the property. In fact, most of the properties have been forcibly reconveyed by them and some of the plots registration could not be completed due to non-payment of requisite stamp duty. Since the property is situated near the Artrial road of Pondicherry, the land value has increased many fold. The accused/A1 along with his family, for constructing malls and other commercial establishments, had threatened the residents to vacate the place. The residents have made several complaints to the Officials. But no action was taken in this regard. The accused/A1 to A3 hailing from dominant community in the area, who claim to be sons of soil, by using political patronage, succesfully vacated the residents. There was no complaint registered against them. A1 has many cases including murder case to his credit. Duing the year 2017, the Lieutenant-Governor made enquiry about these complaints and the illegal acts of A1 to A3. Thereafter, the Lieutenant-Governor gave confidence to the affected persons to come back and reside in their place. However, the accused threatened the defacto complainant and other residents. Hence, the defacto complainant lodged a complaint. On the complaint, FIR was registered and statement of witnesses recorded. On completion of investigation, charge sheet was filed against A1 to A5 as early as on 27.02.2008. But, till date, charge sheet was not taken on file. Further, there are materials available to prove the role played by this petitioner along with other accused. Hence, he opposed the quash petition.

5. Considering the rival submissions and on perusal of the materials, it is seen that the defacto complainant, who retired from Jimper Hospital, had purchased the property on 31.01.2005. Thereafter, the defacto complainant constructed a house after obtaining proper permission and approval from the concerned department. The accused/A1 is a notorious criminal, who has got several criminal cases to his credit including murder case. A1 & A2 with their associates created obstruction for the defacto complainant and other residents in using the common ways. During the year 2009, by use of threat and muscle power, the accused had taken over the property from the defacto complainant and

other residents at the rate fixed by A2 and A3. A1 to A3, who hail from dominant community of the area with political patronage, threatened the defacto complainant. Thereafter, the defacto complainant and other residents gave complaints but no action was taken. During the year 2009, even complaint given to the collector of Puducherry, had no effect. Thereafter, in the year 2017, the defacto complainant and other affected persons gave complaints. The Lieutenant Governor visited the place, enquired and directed the police to take action. On receipt of the complaint, FIR was registered and witnesses were examined. Now, the charge sheet filed against the five accused, in which, the petitioner is A5. The statement of the witnesses was produced for perusal before this Court. This Court finds that there are materials available to proceed against the petitioner. In view of the same, this Court is not inclined to entertain this quash petition. Hence the petition is dismissed. The Trial Court is directed to take the charge sheet on file and proceed with the trial.

6. Further, the learned Additional Public Prosecutor submitted that in several cases, charge sheets were filed several years back, but are yet to be taken on file.

7. In view of the seriousness of the submissions made by the learned Additional Public Prosecutor, the trial Court is directed to file a report on or before 20.09.2020, (i) for what reason, in this case charge sheet filed in the year 2018, is not taken on file, (ii) from which year onwards, charge sheets filed kept pending and not taken on file, (iii) how many charge sheet were returned and how many charge sheets were re-submitted after rectifying the defects and what is the record maintained by the Magistrate in this regard.

Sd/-

Assistant Registrar(CS III)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

ssb

To

The Union Territory of Puducherry
rep.by the Inspector of Police,
S.H.O-D Nagar Police Station,
Puducherry.

Copy to

1.The Additional Public Prosecutor,
Puducherry.

2.The Section Officer,
Criminal Section,
High Court, Madras.

CRL.O.P.No.7360 of 2018

MG (CO)
KKV/14/09/2020



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