

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.09.2020

DELIVERED ON : 18.09.2020

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. No.8611 of 2018 & Crl.M.P. No.3493 of 2020

1 J. Lakshmi

2 Jayavel

3 J. Venkatesan Petitioners/Accused 1 - 3

vs.

1 State represented by
the Inspector of Police
Central Crime Branch - I
Chennai 1st Respondent/Complainant

2 G. Chandrakumari 2nd Respondents/Defacto Complainant

Criminal Original Petition filed under Section 482 Cr.P.C.
seeking to call for the records pertaining to the FIR No.355 of
2017 dated 23.10.2017 on the file of the first respondent and
quash the same.

For petitioners Mr. T. Mohan
for Mr. J. Christopher
For R1 Mrs. P. Kritika Kamal
Govt. Advocate (Crl.Side)
For R2 Mr. S. Anbalagan

ORDER

For the sake of convenience, the parties will be referred to
by their names.

2 On the complaint lodged by Chandrakumari, the second
respondent herein, the first respondent police registered a case
in Cr. No.355 of 2017 on 23.10.2017 for the offences under
Sections 406, 465, 468, 471, 506(I) IPC and 109 IPC against Lakshmi
(A.1), her husband Jayavel (A.2), her son Venkatesan (A.3) and

Dr.Nedunchezhiyan (A.4) and took up the investigation of the case.

3 Venkatesan (A.3) was arrested by the police on 10.11.2017 and thereafter, was released on bail. Challenging the FIR, Lakshmi (A.1), Jayavel (A.2) and Venkatesan (A.3) have preferred the present petition under Section 482 Cr.P.C.

4 Heard Mr. T. Mohan, learned counsel representing Mr.J.Christopher, learned counsel on record for Lakshmi (A.1), Jayavel (A.2) and Venkatesan (A.3), Mrs. P. Kritika Kamal, learned Government Advocate (Crl. Side) appearing for the first respondent police and Mr.S.Anbalagan, learned counsel for Chandrakumari.

5 Before advertng to the rival submissions, it is imperative to narrate the averments in the complaint, which formed the basis of registration of FIR.

6 Chandrakumari, in her complaint, has stated that she is the owner of the plot measuring 1,338 sq. ft. in Mugappair (West) and was in enjoyment of it; her husband suffered brain tumour and therefore, she needed money for meeting the medical expenses; hence, she was looking out for prospective buyers to sell her plot; the accused were having a shop in front of her house and thus, she got acquainted with them; the accused lent her some monies from time to time as loan; they suggested her that if she gives a power of attorney to them, they would look out for a purchaser, sell the plot for a handsome amount, take the monies lent by them and give her the balance; trusting them, she executed a power of attorney on 16.05.2014 in favour of Lakshmi (A.1); after getting the power of attorney, the accused were found doing nothing and one fine day, when she (de facto complainant) visited the property, she found some strangers there, which aroused her suspicion; when she applied for encumbrance certificate, she was shocked to learn that Lakshmi (A.1) had transferred the property to her own son Venkatesan (A.3) on 18.05.2015 by executing a sale deed in his favour for Rs.60 lakhs; further enquiries conducted by her showed that the accused had produced a bogus life certificate purported to be issued by Dr. Nedunchezhiyan (A.4) by making someone impersonate her; when she brought this to the notice of the accused, they started threatening her and ultimately, she lodged a complaint and the FIR was registered, as stated above.

7 Mr. T. Mohan, learned counsel for the petitioners/accused submitted that the Chandrakumari had received several amounts from the accused, to wit, they had given her Rs.10 lakhs on 13.03.2015, Rs.29.50 lakhs on 08.05.2015 and Rs.20.50 lakhs on another date and therefore, her

contention that she was cheated by the petitioners/accused cannot be countenanced. He further submitted that, with the power of attorney given by Chandrakumari, Lakshmi (A.1) had initiated rent recovery proceedings against the tenants who were in the property and had them vacated. The learned counsel also took this Court through the discrepancies between Chandrakumari's version in the complaint and in the counter filed by her.

8 Refuting the aforesaid contentions, Mrs. Kritika Kamal submitted that after the registration of the FIR, Venkatesan (A.3) was arrested and in his confession, he has clearly implicated his parents in the offence and also stated as to how they conspired together to take advantage of Chandrakumari's financial plight and used the power of attorney executed in favour of Lakshmi (A.1) to transfer the property in his (A.3's) favour. With regard to the bogus life certificate, she submitted that they forged the signature of Chandrakumari in it and obtained a life certificate from Dr. Nedunchezian (A.4).

9 This Court gave its anxious consideration to the rival submissions.

10 Though a police confession is not admissible as a substantive piece of evidence during trial in view of the bar under Section 25 of the Evidence Act, the same can be used by the police for the purpose of investigation. A reading of the FIR clearly incriminates the petitioners/accused, inasmuch as Lakshmi (A.1) has obtained power of attorney in her name on 16.05.2014 and has transferred the property to her own son's name, viz., Venkatesan (A.3) on 18.05.2015. There are prima facie materials to show that the life certificate is also a fabricated one. The contention that Lakshmi (A.1) had paid some amounts and that she was instrumental in having the tenants vacated by initiating rent control proceedings, etc. are all questions which can be gone into only by the Investigating Officer and not by this Court in a proceedings to quash the FIR. Further, on account of the order of stay of investigation granted by this Court on 23.09.2019 and extended on 16.10.2019, the investigation has come to a standstill.

11 In view of the foregoing discussion, this Court holds that the facts of this case do not pass muster the law laid down in State of Haryana v. Bhajan Lal & Others¹ for quashing the FIR.

In the result, this criminal original petition stands dismissed. Consequently, connected Crl.M.P. is also dismissed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

cad

To:

- 1 The Inspector of Police
Central Crime Branch - I
Chennai
- 2 The Public Prosecutor
High Court of Madras
Chennai 600 104

+1cc to M/s.J.Christopher, Advocate, S.R.No.30453

+1cc to M/s.S.Anabalagan, Advocate, S.R.No.30594

+1cc to M/s.G.Babu, Advocate, S.R.No.30701

Crl.O.P. No.8611 of 2018

RP (CO)

KKV/23/09/2020

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