

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.06.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.19575 of 2020
and
Crl.M.P.No.7914 of 2020

Vijayakumar

...Petitioner

Vs

1. The Inspector of Police
D. Nagar Police Station,
Puducherry
(Cr.No.6 of 2020)

2. Varalakshmi

...Respondents

PRAYER: Criminal Original Petitions filed under Section 482 of Cr.P.C, praying to call for the records pertaining to the FIR in Crime No.6 of 2020 on the file of the respondent police and quash the same.

For Petitioner : Mr.R.Rajkumar Pandian

For Respondents

For R1 : Mr.V.Balamurugane
Public Prosecutor (Pondy)

For R2 : Mr.G.Thangavel

O R D E R

This petition has been filed to quash the F.I.R. in Crime No.6 of 2020 registered by the first respondent police for offences under Sections 420, 465, 509 r/w 34 of IPC, as against the petitioner.

2.The second respondent lodged complaint alleging that he is the tenant in the house belongs to one Jothismathy and the petitioner herein fabricated the Special Power of Attorney dated 29.08.2012, as if the same was executed by the said Jothismathy in favour of the petitioner, by forging her signature. Using the said document the petitioner filed a petition for eviction in R.C.O.P.No.13 of 2013 on the file of the learned Principal District Munsif, Puducherry. On receipt of the above said

complaint filed under Section 156(3) of Cr.P.C., the learned Judicial Magistrate-I, Puducherry, directed the first respondent to registered the present case.

3.Heard Mr.Rajkumar Pandian, learned counsel appearing for the petitioner, Mr.V.Balamurugane, learned Public Prosecutor appearing for the first respondent and Mr.G.Thangavel, learned counsel appearing for the second respondent.

4.It is seen that the property situated at No.25, Kamaraj Salai Pettaiyanchathiram, Thattanchavady, Puducherry-09, which is owned by the principal of the petitioner herein. She executed Power of Attorney in favour of the petitioner on 29.08.2012, since the principal left to abroad and settled along with her son. Therefore, to look after the property, the petitioner was appointed as a power agent. On the strength of the Special Power of Attorney, the petitioner filed petition as against the second respondent for eviction in R.C.O.P.No.13 of 2013 before the learned Rent Controller, Pondicherry, on the ground of wilful default, owner's occupation etc.

5.In fact, while pending the eviction petition, the second respondent was directed to deposit the rent arrears amount on condition that if the second respondent failed to deposit the arrears of rent amount, all further proceedings will be stopped and eviction will be ordered under Section 11(4) of the Act. Aggrieved by the same, the second respondent preferred an appeal in R.C.A.No.11 of 2016 on the file of the learned II Additional District Judge, (Rent Control Appellate Authority) Puducherry, and the same was also dismissed by the judgment decree dated 11.03.2019.

6.Thereafter, as against both the orders passed by the learned Rent Controller and the Rent Control Appellate Authority, the second respondent filed a Civil Revision Petition before this Court in CRP No.3201 of 2019 and the same was also dismissed. The second respondent suffered with eviction order and to escape from the clutches of law, lodged the peresent complaint with allegations that the petitioner fabricated the Power of Attorney Documents thereby forged the signature of the original landlady.

7.It is seen from the records that for the past 16 years, the second respondent managed to stay in the premises owned by the petitioner's principal and evaded the eviction proceeding by way of filing the Civil Revision Petition. After dismissal of the Civil Revision Petition, the second respondent filed a complaint that too for direction under Section 156(3) of Cr.P.C., and the same was directed to conduct enquiry. On the said direction, the first respondent registered the present case

in Crime No.6 of 2020 for offences under Sections 420, 465, 509 r/w 34 of IPC, as against the petitioner.

8.It is also seen from the Special Power of Attorney execute by the petitioner's principal and also from the affidavit filed by her, both revealed that the principal viz., Jothishmathy, W/o. Late Nesian executed the Special General Power of Attorney in favour of the petitioner on 29.08.2012. On the strength of the said Special Power of Attorney, the petitioner filed petition for eviction and the same was also allowed. That apart, the second respondent never raised this issue during the rent control proceedings or before this Court in the Civil Revision Petition, while challenging the order of eviction. Therefore, it is nothing but clear malafide proceedings and it cannot be sustained as against the petitioner.

9.In this regard, it is relevant to extract the judgement reported in (1992) SCC CrI. 426 in the case of Bajanlal v. State of Haryana, wherein the Hon'ble Supreme Court of India has listed out the following category of case in which the criminal proceedings can be quashed using the inherent jurisdiction of the High Court under Section 482 Cr.P.C.:-

"102.....

.....

7. Where a criminal proceeding is manifestly attended with malafide and/or where the proceedings is maliciously instituted with an ulterior motive for wrecking vengeance on the accused and with a view to spite him due to private and personal grudge."

Therefore, the impugned complaint is nothing but clear abuse of process of law and it cannot be sustained as against the petitioner.

10.Accordingly, this Criminal Original Petition stands allowed and the F.I.R. in Crime No.6 of 2020 on the file of the first respondent is hereby quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rts

To

1. The Inspector of Police
D. Nagar Police Station,
Puducherry
2. The Public Prosecutor,
Madras High Court,
Chennai.

+1cc to M/s.P.Rajkumar Pandian, Advocate, S.R.No.40785

Crl.O.P.No.19575 of 2020

AJB(CO)
RGA(26/07/2022)