



WEB COPY



Crl.OP.Nos.16833 & 27431 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.OP.Nos.16833 & 27431 of 2019
and Crl.MP.No.14583 of 2019

Crl.OP.No.16833 of 2019

Shareen Premnayakam

... Petitioner

Vs.

1.The Commissioner of Police,
Greater Chennai City Police,
Vepery,
Chennai

2.The Superintendent of Police,
CBCID(Metro),
Guindy,
Chennai

3.Inspector of Police,
J2-Adyar Police Station,
Chennai
(crime No.144 of 2019)

4.Govinthan, IAS(Retd.)

5.Guhan Balaji

(R4 & 5 impleaded as per the order
dated 09.09.2019 made in Crl.MP.No.12836
of 2019 in Crl.OP.No.16833 of 2019)

... Respondents



Crl.OP.Nos.16833 & 27431 of 2019

PRAYER: Criminal original petition is filed under Section 482 of Cr.P.C. to pass an order to transfer the investigation of the above said case in crime No.144 of 2019 on the file of the respondent herein viz., The Inspector of Police, J2-Adyar Police Station, Chennai to the file of the Superintendent of Police, CBCID(Metro), Guindy, Chennai or to any other competent investigating agency for proper investigation and to file a final report before competent court.

For Petitioner : Mr.R.John Sathyan,
Senior Counsel
for Mr.G.Chandrasekar

For Respondents
For R1 to3 : Mr.L.Baskaran,
Government Advocate(Crl.side)

For R4 & 5 : Mr.N.R.Elango,
Senior Counsel
for M/s.Aswin Prasanna A.S.

Crl.OP.No.27431 of 2019

1.N.Govinthan, IAS (Retd)
2.G.Guhan Balaji

... Petitioners

Vs.

1.The State Represented by
Inspector of Police,
J-2, Adyar Police Station,
Chennai 600 020
(crime No.144 of 2019)
2.Shareen Premanayagam

... Respondents

PRAYER: Criminal original petition is filed under Section 482 of Cr.P.C. to call for the records in crime No.144 of 2019 dated 04.04.2019 on the file of the first respondent and to quash the same as against the petitioners.



WEB COPY



Crl.OP.Nos.16833 & 27431 of 2019

For Petitioners

: Mr.N.R.Elango,
Senior Counsel
for M/s.A.S.Aswin Prasanna

For Respondents

For R1

: Mr.L.Baskaran,
Government Advocate(Crl.side)

For R2

: Mr.R.John Sathyan,
Senior Counsel
for Mr.G.Chandrasekar

COMMON ORDER

The criminal original petition in Crl.OP.No.16833 of 2019 has been filed to transfer the investigation in crime No.144 of 2019 on the file of the third respondent to the file of the second respondent or to any other competent investigating agency for proper investigation and to file a final report before competent court. The criminal original petition in Crl.OP.No.27431 of 2019 has been filed to quash the proceedings in crime No.144 of 2019 on the file of the first respondent registered for the offences under Sections 448 & 379 of IPC as against the petitioners. The second respondent in Crl.OP.No.27431 of 2019 and the petitioner in Crl.OP.No.16833 of 2019 is the defacto complainant.

2. Insofar as the criminal original petition in Crl.OP.No.27431 of



CrI.OP.Nos.16833 & 27431 of 2019

2019, the second respondent was inducted as tenant by the accused and paid a sum of Rs.3,50,000/- as an advance for the premises owned by the accused situated at door No.3, First Floor, Honey Villa, Third Cross Street, Canal Street, Gandhinagar, Adyar, Chennai (hereinafter called as 'the petition premises') for the monthly rent of Rs.40,000/- from the month of September 2018. However, the accused pressurised the defacto complainant to vacate the premises immediately. The defacto complainant requested some time to vacate the premises since she had spent a lot of money. Further, the accused also demanded rent at Rs.75,000/- per month if the defacto complainant desires to continue her tenancy. The accused threatened the defacto complainant with rowdy elements to vacate the petition premises and also gave lot of trouble such as by stopping water supply and electricity to the petition premises. The defacto complainant also lodged complaint and she was issued CSR by the Inspector of Police, J2 Adyar Police Station, Chennai.

2.1 Thereafter, she also lodged complaint before the Commissioner of Police and it is pending in complaint No.2000 of 2019. The said complaints were forwarded to the Assistant Commissioner of Police. However no action was taken as against the accused. Since there was no water supply and electricity supply, the *defacto complainant* was forced to stay outside leaving



CrI.OP.Nos.16833 & 27431 of 2019

the valuable properties in the premises. Therefore, the defacto complainant agreed to vacate the premises and hand over the vacant possession of the house on 31.03.2019 before the Assistant Commissioner of Police while enquiry. However, while visiting the premises on 31.03.2019, she shocked and surprised that the lock of the door was broke down and the entire premises was empty leaving certain household articles. The accused dishonestly removed the valuable articles from the petition premises belong to the defacto complainant and had taken forcible possession of the petition premises without consent of the defacto complainant. Hence, the complaint. On receipt of the said complaint, the first respondent registered FIR in crime No.144 of 2019 for the offences under Sections 448 and 379 of IPC.

3. Mr.N.R.Elango, the learned Senior Counsel appearing for the petitioners would submit that even according to the defacto complainant, no *prima facie* case made out for registration of FIR under Sections 448 and 379 of IPC. As agreed by the defacto complainant, she herself vacated the premises and handed over the vacant possession to the landlords i.e. the petitioners herein. Though the defacto complainant was given premises for rent, the defacto complainant refused to sign the rental agreement. In fact, the defacto complainant drilled a hole and was attempting to install her own lock on the



CrI.OP.Nos.16833 & 27431 of 2019

door without permission of the petitioners on 18.01.2019. When it was questioned by them, the defacto complainant abused them with filthy languages and also threatened them with dire consequences. Therefore, the petitioners lodged complaint, but no action was taken. As such, another complaint was lodged before the Assistant Commissioner of Police, Adyar. On the said complaint, the police officials inspected the premises and warned the defacto complainant not to indulge in any criminal activities. Thereafter on 04.03.2019, the defacto complainant herself had sent persons to vacate the premises. After vacating the premises, she locked the same without handing over the key. It was duly informed to the police. Thereafter, the defacto complainant refused to hand over the key and demanded huge amount, that too after vacating the premises. The first petitioner is a retired IAS Officer and the second petitioner is his son who is a practising advocate before this Court. Therefore, in order to damage their reputation, the false complaint has been lodged as against the petitioners.

4. Per contra, Mr.R.John Sathyan, the learned Senior Counsel appearing for the second respondent would submit that the petitioners are being landlords, unethically and forcibly vacated the defacto complainant from the premises, that too without returning the advance amount. They looted the



CrI.OP.Nos.16833 & 27431 of 2019

entire household articles and had taken vacant possession of the petition premises. The defacto complainant never vacated the premises by their employees. That apart, this petition has been filed to quash the FIR and it cannot be quashed on its threshold as the same has to be investigated in depth to unearth the truth. There are specific allegations to attract the offences under Sections 448 & 379 of IPC. He also produced photographs to show that the household articles were loaded in a lorry from the petition premises.

5. The learned Government Advocate(crl.side) appearing for the first respondent submitted that the investigation is still in progress and as such, it cannot be quashed on its threshold as there are specific allegations as against the petitioners to attract the offences under Sections 448 & 379 of IPC

6. Heard, the learned counsel appearing on either side.

7. There are two accused in the impugned FIR registered in crime No.144 of 2019 for the offences under Sections 448 & 379 of IPC, in which the petitioners are arrayed as A1 and A2. Admittedly, the petitioners are the landlords of the petition premises. Though the second respondent claimed to be the tenant under the petitioners, she failed to produce any agreement for rent.



CrI.OP.Nos.16833 & 27431 of 2019

Whereas the case of the petitioners is that they agreed for the monthly rent of Rs.75,000/- for the petition premises excluding the maintenance charge and paid a sum of Rs.1,00,000/- as an advance. Suddenly, without any permission from the landlords, the second respondent moved into petition premises on 30.08.2018, that too without any agreement for rent. Thereafter, she also refused to sign the rental agreement. On perusal of records also revealed that the first petitioner lodged complaint on 28.11.2018 and he was issued CSR.No.213 of 2018. The crux of the complaint was that the second respondent refused to sign rental agreement and she refused to pay any rent as agreed for the petition premises and as such, sought to take appropriate action as against her. Once again, the first petitioner lodged complaint before the Assistant Commissioner of Police, Adyar on 06.03.2019. On perusal of the said complaint revealed that the second respondent vacated the petition premises by removal of household articles and locked the premises. The second respondent did not hand over the keys or even communicate the same to the petitioners. Accordingly, the petitioners had taken possession of the premises for their own use and occupation.

8. Further, while granting anticipatory bail to the petitioners, this Court imposed condition to pay a sum of Rs.3,50,000/- in favour of the second



Crl.OP.Nos.16833 & 27431 of 2019

respondent which was issued as an advance by the second respondent.

However, it was refused by the second respondent and as such, the petitioners sought permission before this Court in in Crl.MP.No.10542 of 2019 to modify the condition imposed by this court and to permit them to deposit to the credit of crime number. It was allowed by this Court by an order dated 31.07.2019 and accordingly, the petitioners made deposit of a sum of Rs.3,50,000/- to the credit of crime No.144 of 2019 on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai. Even assuming that the allegations made in the FIR are true, it is nothing but landlord tenant dispute. After vacating the petition premises, the second respondent lodged complaint. That apart, the second respondent failed to sign the rental agreement. Therefore, the registration of FIR as against the petitioners is nothing but clear abuse of process of law and it cannot be sustained for further investigation.

9. Further, the alleged occurrence took place on 31.03.2019. In fact, the second respondent obtained CCTV footage while loading the household articles in a lorry. Even then, on the same day, no complaint was lodged by the second respondent. The complaint was lodged only on 04.04.2019, that too at about 21.00 hours. It shows that the entire complaint itself is false and lodged with false averments. There is no proper explanation by the second respondent



Crl.OP.Nos.16833 & 27431 of 2019

for the delay in lodgment of complaint.

WEB COPY

10. In view of the above discussion, the entire proceedings in crime No.144 of 2019 dated 04.04.2019 on the file of the first respondent is quashed and the criminal original petition in Crl.OP.No.27431 of 2019 is allowed. The second respondent is permitted to withdraw the advance amount of Rs.3,50,000/-deposited by the petitioners from the credit of crime No.144 of 2019 on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai by filing proper application.

11. In view of the above order passed in Crl.OP.No.27431 of 2019, the transfer of investigation in crime No.144 of 2019 does not arise. Accordingly, the criminal original petition in Crl.OP.No.16833 of 2019 is dismissed. Consequently, connected miscellaneous petition is closed.

17.11.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

lok

To



Crl.OP.Nos.16833 & 27431 of 2019

- 1.The Commissioner of Police,
Greater Chennai City Police,
Vepery,
Chennai
- 2.The Superintendent of Police,
CBCID(Metro),
Guindy,
Chennai
- 3.Inspector of Police,
J2-Adyar Police Station,
Chennai
- 4.The Government Advocate,
High Court of Madras

G.K.ILANTHIRAIYAN, J.

lok



WEB COPY



Crl.OP.Nos.16833 & 27431 of 2019

Crl.OP.Nos.16833 & 27431 of 2019

17.11.2023