

**G.Ramesh Vs. State**

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**SooperKanoon Citation :** [sooperkanoon.com/1168028](http://sooperkanoon.com/1168028)

**Court :** Chennai

**Decided On :** Sep-30-2013

**Judge :** R.Subbiah

**Appellant :** G.Ramesh

**Respondent :** State

**Judgement :**

IN THE HIGH COURT OF JUDICATURE AT MADRAS DATED : 30.09.2013  
CORAM: THE HON'BLE MR.JUSTICE R.SUBBIAH CrI.O.P.No.17701 of 2013 and  
M.P.No.1 of 2013 G.Ramesh ..Petitioner versus 1.State rep.

By The Inspector of Police, District Crime Branch, Cuddalore, Cuddalore District,  
(Crime No.30/2012) 2.J.Sekar ..Respondents (R2 impleaded as per the order of  
the Court dated 27.07.2013 in M.P.3/13) Prayer: Petition filed under Section 482 of  
the Criminal Procedure Code praying to call for the records in charge sheet in  
C.C.No.1 of 2013 pending on the file of the learned Judicial Magistrate No.II at  
Chidambaram and to quash the same in so far as the petitioner is concerned.

For Petitioner :Mr.N.Chandrasekaran For Respondents :Mr.C.Emalias, APP (For  
R1) Mr.K.Rajasekaran (For R2) \* \* \* \* \*

**ORDER**

This petition has been filed seeking to call for the records in C.C.No.1 of 2013  
pending on the file of the learned Judicial Magistrate No.II at Chidambaram and to

quash the same, in so far as the petitioner herein is concerned.

2.The petitioner herein has been arrayed as 3rd accused in C.C.No.1 of 2013 pending on the file of the learned Judicial Magistrate No.II, Chidambaram.

The 2nd respondent herein / defacto-complainant had filed a complaint as against one Palanidesigan and six otheRs.including the petitioner herein, for the alleged offences under Sections 420, 423, 465, 468, 471, 120(B) r/w 109 IPC.

On the basis of the complaint given by the 2nd respondent / defacto-complainant, a case in Crime No.30 of 2012 was registered by the 1st respondent-Police.

On completion of the investigation, the 1st respondent-Police has filed the charge-sheet before the learned Judicial Magistrate No.II, Cuddalore and the same was taken on file as C.C.No.1 of 2013.

Now, the petitioner/A3 has come forward with the present petition before this Court seeking to quash the charge-sheet.

3.It is the case of the prosecution that the property in Door Nos.30A, 30B, 30C situated in West Car Street and Door Nos.61, 61A, 61B, Lalkhan Street in T.S.No.1264/1, 1264/2 to a total extent of 3744 sq.ft land and building in Chidambaram Town, was owned by the ancestors of the 2nd respondent/defacto-complainant.

The said property was apportioned between the brothers in the year 1895 by a partition deed dated 29.07.1895 and as per the Partition Deed, the senior member of the family has to take care of the family and discharge their duties.

Accordingly, the 2nd respondent's grand-father Venugopal Chettiar and later his paternal uncle Krishnaswamy managed the said property.

During that period, the said Venugopal Chettiar leased out the said property to one Abdul Razaq for a period of 20 years in the year 1956 and extended the lease period for another 15 years in the year 1969 ie., upto 1991.

Later, during the year 1993 the said Abdul Razaq died.

Thereafter, the 2nd accused Mohammed Yusuf and the 4th accused Abdul Munaf encroached the property allegedly on the ground that they are the relatives of Abdul Razaq.

The 2nd respondent's father Jayaraman Chettiar, who inherited the above property as the senior member of the family, had taken steps to evict A2-Mohammed Yusuf and A4-Abdul Munaf from the property.

While so, A2-Mohammed Yusuf and A3-G.Ramesh (Petitioner herein) created a fabricated Lease Deed dated 25.07.2008 and registered the same as Document No.3291 of 2008 and A2-Mohammed Yusuf leased out the above said property to A3-G.Ramesh (petitioner herein) for a period of 99 years. Further, A2-Mohammed Yusuf divided the property into many parts and leased out some portions to A5 to A7 and kept the remaining portions in his possession.

Further, the 2nd accused -Mohammed Yusuf along with A1-Palanidesigan created another fabricated Lease Document No.3506/2012 registered at Sub-Registrar Officer, Chidambaram on 12.07.2012.

Through the said forged lease deed, the 1st accused Palanidesigan leased out the major portion of the said property to A2-Mohammed Yusuf for a period of 98 years. Similarly, on the same day i.e., on 12.07.2012, A1-Palanidesigan and the petitioner herein (A3) created another fabricated document (Doc.No.3505/2012) registered at SRO, Chidambaram and A1-Palani Desigan Udayar leased out a portion of the property to the petitioner herein (A3) for 98 years. Thereby, A1-Palani Desigan Udayar, A2-Mohammed Yusuf and A3 (petitioner herein) have made unlawful gain.

A4-Abdul Munaf encroached a portion of the property and A5 to A7 being well aware that A2-Mohammed Yusuf is not the owner of the property had entered into lease agreement with A2.

Hence, the complaint was lodged by the 2nd respondent/ defacto-complainant.

4. It is the main submission of the learned counsel for the petitioner/A3 that the 2nd respondent's grand-father Venugopal Chettiar leased out the subject property to

one Abdul Razaq and the said Abdul Razaq died in the year 1993.

After the demise of the said Abdul Razaq, one Mohammed Yusuf (A2) and Abdul Munaf (A4) were in possession and enjoyment of the property for several years. The said Mohammed Yusuf (A2) and Abdul Munaf (A4) leased out the property to other tenants including the petitioner herein.

The petitioner herein has also been paying the lease amount.

The 2nd respondent's father Jayaraman Chettiar had filed RCo. for eviction and a civil suit in O.S.No.99 of 2001 before the learned District Munsif at Chidambaram.

Pending RCo. and civil suit, the 2nd respondent (defact-complainant) and his father have sold the property by way of a sale deed registered as Document No.6625/2011 at District Registrar Office, Chidambaram, in favour of one Muthukumar.

As on date, only the said Muthukumar is the owner of the property.

Only in order to give vacant possession of the said property to the said Muthukumar, the 2nd respondent (defact-complainant) has filed a false complaint as against the tenants including the petitioner herein to put a pressure on the tenants.

Further, the learned counsel for the petitioner submitted that the very fact that the civil suit & RCo. are pending between the parties would show that it is only a dispute between the landlord and tenants and it is purely civil in nature.

There cannot be a criminal complaint for civil dispute between the parties.

Hence, on this ground the complaint is liable to be quashed.

5. The learned counsel for the petitioner has further submitted that presently the said Muthukumar is the owner of the property and under such circumstances, the 2nd respondent/defacto-complainant has no locus standi to file the complaint.

Therefore, on that ground also, the complaint is liable to be quashed.

Further, the learned counsel for the petitioner submitted that very reading of the complaint itself would show that the allegations made in the complaint do not constitute any cognizable offence and hence, the complaint is liable to be quashed.

6.The learned counsel for the petitioner has relied upon a judgment reported in (2009) 7 SCC495[Devendra and others versus State of Uttar Pradesh and another].in support of his contentions, wherein it has been held as follows:- a wrong committed on the part of the person may be a civil wrong or a criminal wrong although an act of omission or commission on the part of a person may give rise to both civil action and criminal action.

A distinction must be made between a civil wrong and a criminal wrong.

When dispute between the parties constitute only a civil wrong and not a criminal wrong, the courts would not permit a person to be harassed although no case for taking cognizance of the offence has been made out. Relying upon the above said judgment, the learned counsel for the petitioner submitted that when the allegations are purely civil in nature, the petitioner cannot be harassed by filing a criminal complaint.

7.The learned counsel for the petitioner has also relied upon the judgment reported in (2009) 8 SCC751[Mohd.Ibrahim versus State of Bihar].for the proposition that criminal courts should ensure that criminal proceedings are not misused for settling scores or pressurising parties to settle civil disputes.

8.The learned counsel for the petitioner relied upon the judgments reported in 2010(5) CTC438[K.Srinivasan versus G.Kuppusamy Naidu Memorial Sport Trust].and (2011).SCC616[A.Subash Babu versus State of A.P.].and submitted that the 2nd respondent/Defacto-complainant will not fall within the meaning of 'aggrieved person', since he has already sold the property to one Muthukumar.

Hence, he has no locus standi to lodge the complaint.

9.Countering the submissions made by the learned counsel for the petitioner, the learned counsel for the 2nd respondent/defacto-complainant submitted that it is

incorrect to state that the allegations made in the complaint are purely civil in nature.

FiRs.of all, the petitioner is not a tenant in respect of the subject property.

The property was leased out to one Abdul Razaq by grand-father of the 2nd respondent viz., Venugopal Chettiar in the year 1956 for a period of 20 years and the lease period was further extended till 1991.

The said Abdul Razaq died in the year 1993.

After his death, one Mohammed Yusuf (A2) and Abdul Munaf (A4).who have nothing to do with the property, have taken the possession of the property stating that they are relatives of the said Abdul Razaq.

The 2nd accused Mohammed Yusuf (A2) divided the property in different portions and leased out to A5, A6 & A7 and he had also created forged lease deed with the petitioner herein (A3).After the death of the 2nd respondent's paternal uncle, the 2nd respondent's father Jayaraman Chettiar inherited the above property as the senior member of the family.

The 2nd respondent's father Jayaraman Chettiar had taken steps to evict the 2nd accused Mohammed Yusuf and 4th accused Abdul Munaf from the subject property by filing RCOP.

10.It is further submitted by the learned counsel for the 2nd respondent that the 2nd accused Mohammed Yusuf, without any right, executed a lease deed dated 25.07.2008 registered as Document No.3291 of 2008 in the Sub-Registrar Office, Chidambaram, in favour of the petitioner herein (A3).Through the said forged document, the accused 2 leased out the subject property in favour of the petitioner herein (A3) for a period of 99 years.After the execution of the said forged lease deed, the accused 1 & 2 once again created another forged lease deed dated 12.07.2012 for a period of 98 years over the said property in favour of the 2nd accused, which was registered as Document No.3506 of 2012 in the Sub-Registrar Office, Chidambaram.

The 1st accused Palanidesigan without any right over the property had fraudulently conspired with the other accused and created the lease deed for a period of 98 years in favour of the 2nd accused with a mala fide intention to grab the property.

In the same manner, the 1st accused Palanidesigan and 3rd accused (petitioner herein) had conspired and colluded together and created a fabricated forged lease deed dated 12.07.2012 for a period of 98 years over the said property in favour of the 3rd accused (petitioner herein).which was also registered as Document No.3505 of 2012.

Thus, the learned counsel for the 2nd respondent submitted that the accused persons, who have no right over the property, by creating forged lease deeds have been trying to grab the property of the 2nd respondent.

Therefore, the allegations made in the complaint make out a cognizable offence and it is not a dispute between landlord and tenant as claimed by the petitioner.

In fact, the property was soled to one Muthukumar by the 2nd respondent/defacto-complainant and his father Jayaraman Chettiar, by way of a sale deed dated 21.11.2010 registered as Doc.No.6625/2011 and in the said sale deed there is an indemnity clause to the effect that the 2nd respondent herein/defacto-complainant shall take care of any dispute with regard to the subject property.

Moreover, the possession of the property is still with the 2nd respondent and the possession was not handed over to the said Muthukumar.

Under such circumstances, it cannot be said that the 2nd respondent has no locus standi to file the complaint.

11.The learned counsel for the 2nd respondent/defacto-complainant has also relied upon the judgments reported in (2009) 5 SCC1999(K.Ashoka versus N.L.Chandrashekar).and (2012) 10 SCC155[State of Madhya Pradesh versus Surendra Kori].in support of his contention that whether the allegations made in the complaint/petition are correct or not has to be considered only during the couRs.of trial and the same cannot be decided in the quash petition.

12.The learned Additional Public Prosecutor submitted that the 1st respondent-Police, on investigation, came to know that there was an attempt by the accused persons to grab the property from the defacto-complainant.

Hence, after completing the investigation, the 1st respondent-Police has filed the charge-sheet before the Court below.

13.Heard the submissions made by the learned counsel for the petitioner, learned counsel for the 2nd respondent and the learned Additional Public Prosecutor and perused the materials available on record.

14.According to the petitioner herein/A3, the issue involved in the complaint is only civil in nature.

It is the specific case of the petitioner that the subject property is an ancestral property of the 2nd respondent and said property was rented out to different tenants and he is one among them, who had taken out the property from the 1st accused Palanidesigan on lease.

Since the property was now sold by the 2nd respondent along with his father Jayaraman Chettiar to one Muthukumar, now the present criminal case has been initiated against him and other tenants in order to put a pressure on them to make them to vacate the premises.

Moreover, various civil disputes are pending between the parties before the civil court with regard to the subject property, which would show the matter is purely civil in nature.

Now by giving a criminal colour to civil dispute, the 2nd respondent has lodged the complaint with the Police.

15.But, according to the 2nd respondent/defacto-complainant, it is not a dispute between the landlord and tenant.

The 1st accused Palanidesigan, who is nothing to do with the subject property, created a forged document with the petitioner herein (A3) and allowed the petitioner herein (A3) to occupy the property, only with an intention to grab the

property from the 2nd respondent/defacto-complainant.

It is incorrect to state that the civil suit is pending between the parties.

The only suit filed by the petitioner in O.S.No.167 of 2012 against one Muthukumar, who had purchased the property from the 2nd respondent & his father Jayaraman Chettiar, was also dismissed for default and as on date, no civil suit is pending between the accused persons and 2nd respondent.

16.On a careful reading of the materials available on record, I find that originally in respect of the subject property a lease deed dated 25.07.2008 registered as Document No.3291 of 2008 was executed by the 2nd accused Mohammed Yusuf in favour of the 3rd accused / petitioner herein for a period of 99 yearRs.Again in respect of the same property, another lease deed dated 12.07.2012 registered as Document No.3505 of 2012 was executed by the 1st accused Palanidesigan in favour of the 3rd accused/petitioner herein for the period of 98 yearRs.Absolutely no material has been produced before this Court on the side of the petitioner herein to show as to how the accused 1 & 2 have got right to execute the lease deeds in favour of the petitioner and other tenants.

In this background, I find some force in the submission made by the learned counsel for the 2nd respondent/defacto-complainant.

Therefore, it cannot be said that the allegations made in the complaint are purely civil in nature.

When there is a prima facie case against the petitioner herein, whether the allegations made in the complaint are true or not has to be decided only during the courRs.of trial and the same cannot be decided in the present petition.

Hence, by exercising the power under Section 481 of Cr.P.C., the proceedings in C.C.No.1 of 2013 cannot be quashed in this case.

17.In this regard, a reference could be place in the judgment reported in (2012) 10 SCC155[State of Madhya Pradesh versus Surendra Kori]., wherein it has been held as follows:- We are of the considered opinion that in view of the magnitude of

the crime, the number of documents alleged to have been executed fraudulently, the reports referred to in the charge-sheets and the involvement of the respondent, etc. could be decided only if an opportunity is given to the prosecution.

The High Court, in such circumstances, was not justified in quashing all the FIRs, information reports and the charge-sheets in exercise of its powers under Section 482 Cr PC.

In the judgment of this Court reported in (2008).MLJ (Cri) 986 [Peter J. Dennis versus Galaxy Granite (P) Ltd]., it has been held as follows:- The question as to mala fide intention of the parties could be gathered only on the strength of the oral evidence and in a proceedings under Section 482 of Code of Criminal Procedure, 1973 is very premature stage to ascertain the intention of the parties. Keeping the dictum laid down in the above cited cases, I am of the opinion that even in this case, it is the specific allegation of the 2nd respondent that number of forged documents were created by the petitioner & Accused 1 & 2 in order to grab the property.

The materials available on record prima facie would show that Accused No.1 & 2 had created number of lease deeds within a short span of time.

Further, no document was produced before this Court to show the right of the Accused 1 & 2 over the subject property to execute a lease deed in favour of the petitioner and others. It is the specific allegation of the 2nd respondent that knowing fully well, this petitioner along with the Accused No.1 created the lease deed to grab the property.

The correctness of the said allegation has to be decided only in the courts of the trial.

Therefore, it is incorrect to state that the matter is purely civil in nature.

Hence, I am not inclined to accept the submission made by the learned counsel for the petitioner in support of quashing the complaint.

18.It is yet another submission of the learned counsel for the petitioner that presently the property has been sold to one Muthukumar by the defacto-complainant and his father and therefore, the defacto-complainant is not the owner of the property as of now and he has no locus standi to lodge the complaint.

19.But, the materials available on record would show that, as contended by the learned counsel for the 2nd respondent/defacto-complainant, that the possession of the property is still with the 2nd respondent and the same was not conveyed to the said Muthukumar.

Further, there is an indemnity clause in the sale agreement to the effect that the defacto-complainant should take care of any dispute with regard to the property.

Therefore, it is incorrect to state that the 2nd respondent/defacto-complainant has no locus standi to lodge the complaint, as he is not totally an alien to the subject property.

Under such circumstances, I do not find any force in the submissions made by the learned counsel for the petitioner.

Absolutely no case has been made out to quash the complaint and the present petition is liable to be dismissed.

20.In the result, the present criminal original petition is dismissed.

Consequently, connected Miscellaneous Petition is closed.

ssv To, 1.The Judicial Magistrate No.II, Chidambaram.

2.The Inspector of Police, District Crime Branch, Cuddalore, Cuddalore District.

3.The Public Prosecutor, High Court, Madras

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