

Shatrughna Atmaram Patil & Ors.

v.

Vinod Dodhu Chaudhary & Anr.

(Special Leave Petition (Crl.) No. 14585 of 2023)

30 January 2024

[Vikram Nath* And Satish Chandra Sharma, JJ.]

Issue for Consideration

One R (owner) sold premises in dispute to five persons. Thereafter, R committed suicide and left behind a suicide note, naming the tenants, who were in possession of premises in question, as abettors. On the strength of the same, a complaint was made to the local police. The tenants were held in police station and the premises in question were demolished with the help of local police. Thereafter, two tenants filed complaint u/s. 156(3) Cr.P.C., which was forwarded to the concerned Police Station for registration and investigation. The High Court approved the order of the investigation.

Headnotes

Settlement – During the pendency of the petitions, a settlement was arrived between the parties:

Held: During the pendency of the petitions, it appears that some settlement has been arrived at between the complainants and the 13 accused – The subsequent purchasers (of the premises in question) have paid an amount of Rs. 10 lacs to each of the tenants, and in lieu thereof, the tenants have filed their affidavits stating that they do not wish to further prosecute their complaint – The details of the bank drafts have also been mentioned in the affidavits filed by the tenants – Based on this settlement, it is prayed that these petitions may be allowed, and the proceedings arising out of the two criminal complaints u/s. 156(3) Cr.P.C. be quashed – Since, losses of tenants having been compensated, any further investigation or trial would be an exercise in futility. [Paras 7 and 8]

Cost – Imposition of – Role of the police personnel in conspiring and abetting the crime of the illegal detention of

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the tenants, coercing them to sign the document against their will, and getting the premises in question demolished without any order from a competent Court:

Held: It is directed that the six police personnel will suffer a cost of Rs. 6.0 lacs for each of the two complainants – Out of the six police personnel, three are constables, one is a Head Constable, one is a Sub-Inspector, and one is an Inspector – They shall suffer a cost of Rs. 50,000/- per Constable, Rs.1,00,000/- by the Head Constable, Rs. 1.50 lacs by the Sub-Inspector, and Rs. 2.0 lacs by the Inspector, totalling Rs. 6.0 lacs for each case with the above distribution. [Para 10]

List of Acts

Code of Criminal Procedure, 1973; Penal Code, 1860.

List Keywords

Suicide; Suicide note; Tenants; Abettors; Demolition of property; Complaint; Investigation; Settlement; Compensation; Cost; Imposition of cost on Police Personnel.

Case Arising From

CRIMINAL APPELLATE JURISDICTION : Special Leave Petition (Crl.) No.14585 of 2023.

From the Judgment and Order dated 23.10.2023 of the High Court of Judicature at Bombay at Aurangabad in CRLWP No.474 of 2023.

With

SLP. (Crl.) Nos.14572, 14734-14735, 15433 and 15294 of 2023

Appearances for Parties

Rahul Chitnis, Hersh Desai, Ms. Shwetal Shepal, Chander Shekhar Ashri, Sudhanshu S. Choudhari, Ms. Rucha A. Pande, M. Veeraragavan, Ms. Gautami Yadav, Ms. Pranjal Chapalgaonkar, Ravindra Keshavrao Adsure, Jitendra Patil, Sagar Nandkumar Pahune Patil, Yash Prashant Sonavane, Advs. for the Petitioners.

Siddharth Dharmadhikari, Aaditya Aniruddha Pande, Bharat Bagla, Sourav Singh, Aditya Krishna, Ms. Raavi Sharma, Ms. Yamini Singh, Anish R. Shah, Advs. for the Respondents.

Digital Supreme Court Reports**Judgment / Order of the Supreme Court****Judgment****Vikram Nath, J.**

1. The premises in question were in the possession of three tenants. However, for the present, we are concerned with only two tenants, namely Vijaykumar Vishwanath Dhawale and Vinod Dodhu Chaudhary. As the third tenant had not filed any complaint and only the above two named complainants have filed the complaint, that is why the third tenant is not a party to the proceedings.
2. The premises in dispute were owned by one Rajeev Ramrao Chavan. He sold the property to five persons, namely Sanjay Nathmal Jain, Sunil Mishrilal Jain, Manoj Mishrilal Jain, Ghanshyam Bansilal Agrawal and Prasannachand Sobhagmal Parakh, vide registered sale deed dated 27.10.2021. Unfortunately, Rajeev Ramrao Chavan, the vendor of the sale deed dated 27.10.2021, died allegedly having committed suicide on 08.03.2022 and having left behind a suicide note, naming the tenants as abettors. On the strength of the same, a complaint was made to the local police. However, an accidental death was registered, but no FIR¹ was registered under Section 306 of the Indian Penal Code, 1860².
3. Soon thereafter, i.e., on 09.03.2022, the tenants were called to the concerned Police Station. They were held for about 24 hours, and in the meantime, the premises in question were demolished by the brother of the deceased-vendor, his widow, and with the support of the local police. At the Police Station, the tenants were also forced to sign some documents, apparently giving their consent of vacating the premises voluntarily.
4. The two tenants, Vijaykumar Vishwanath Dhawale and Vinod Dodhu Chaudhary lodged complaint initially with the Police Station, but as the same was not acknowledged, they moved an application before the concerned Magistrate under Section 156(3) of Code of Criminal Procedure, 1973³. In the complaint made by the two tenants, 13

1 First Information Report

2 'IPC'

3 In short, "Cr.P.C."

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accused were named, namely Dr. Sanjeev Ramrao Chavan i.e. brother of the deceased, Smita Rajeev Chavan i.e. widow of the deceased, the five purchasers mentioned above under the sale deed dated 27.10.2021, and six police personnel namely, Shatrughna Atmaram Patil, Jaipal Manikrao Hire, Milind Ashok Bhamare, Suryakant Raghunath Salunkhe, Nilesh Subhash More and Sunil Kautik Hatkar.

5. The learned Magistrate, dealing with the Section 156(3) Cr.P.C. application, instead of directing the police to register the FIR and investigate, passed an order on 20.12.2022 for an inquiry under Section 202 Cr.P.C., confining it to the involvement of the brother of the deceased, widow of the deceased, and the five purchasers. This order of the Magistrate was challenged by the tenants/complainants before the Sessions Judge. The Sessions Judge vide order dated 23.03.2023, allowed the revision and directed that the complaint filed before the Magistrate under Section 156(3) Cr.P.C. be forwarded to the concerned Police Station for registration and investigation.
6. The order of the Revisional Court dated 23.03.2023 was challenged before the High Court by all the 13 accused through separate petitions titled under Section 482 Cr.P.C. and Article 227 of the Constitution of India. The High Court, while deciding these petitions, not only approved the order of the Sessions Judge but also issued further directions regarding investigation, by the impugned order dated 23.10.2023. It is this order which is under challenge before us by way of these six petitions. Special Leave Petition (Crl.) No. 15433 of 2023 and Special Leave Petition (Crl.) No. 15294 of 2023 have been filed by the brother of the deceased with respect to the two complaints made by the two tenants. Special Leave Petition (Crl.) Nos. 14734-14735 of 2023 have been filed by the five purchasers under the sale deed dated 27.10.2021 again with respect to the two complaints filed by the two tenants. Special Leave Petition (Crl.) No. 14585 of 2023 and Special Leave Petition (Crl.) No. 14572 of 2023 have been filed by the six police personnel again arising out of the two complaints filed by the two tenants.
7. During the pendency of the petitions, it appears that some settlement has been arrived at between the complainants and the 13 accused. The subsequent purchasers have paid an amount of Rs. 10 lacs to each of the tenants, and in lieu thereof, the tenants have filed their affidavits stating that they do not wish to further prosecute their complaint. The details of the bank drafts have also been mentioned

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in the affidavits filed by the tenants along with Criminal Miscellaneous Petition No. 8150 of 2024 in Special Leave Petition (Crl.) Nos. 14734-14735 of 2023. Based on this settlement, it is prayed that these petitions may be allowed, and the proceedings arising out of the two criminal complaints under Section 156(3) Cr.P.C. be quashed.

8. From the factual matrix as recorded above, we find that the continuance of these two criminal proceedings would not be of any avail once the complainant has himself stated to withdraw the complaint. Their losses having been compensated, any further investigation or trial would be an exercise in futility.
9. The compensation for the tenants has been given by the subsequent purchasers, as stated in the affidavits, apparently for the reason that they are now the owners of the property and they have been instrumental in carrying out the demolition illegally. The widow of the deceased (although not a party before us) and the brother may not be having any further interest inasmuch as the property had already been sold by the deceased four and half months prior to his death. However, what we are not satisfied with is why the police personnel have been allowed to go scot-free in a case where they had an apparent role in conspiring and in abetting the crime of the illegal detention of the tenants, coercing them to sign the document against their will, and getting the premises in question demolished without any order from a competent Court.
10. We, accordingly, direct that the six police personnel will suffer a cost of Rs. 6.0 lacs for each of the two complainants. Out of the six police personnel, three are constables, one is a Head Constable, one is a Sub-Inspector, and one is an Inspector. They shall suffer a cost of Rs. 50,000/- per Constable, Rs.1,00,000/- by the Head Constable, Rs. 1.50 lacs by the Sub-Inspector, and Rs. 2.0 lacs by the Inspector, totalling Rs. 6.0 lacs for each case with the above distribution. This amount shall be deposited in Account No. 90552010165915 of the Armed Forces Battle Casualties Welfare Fund, Canara Bank, Branch South Block, Defence Headquarters, within four weeks from today. After depositing the said amount in the aforesaid fund, they shall file proof of deposit with the Registry of this Court within six weeks and also before the Magistrate and the High Court. Upon deposit of the said amount, the proceedings of the two complaint cases shall stand quashed and closed.

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11. We, however, make it clear that any observations made and also the direction to suffer compensation to the tenants by the six police personnel will not be treated as adverse to their interest in consideration of their promotions etc. that is to say that this order may not be kept in their service records.
12. It is further made clear that if the proof of deposit is not filed within the stipulated time, these petitions filed by the police personnel would stand dismissed.
13. In light of the above, Special Leave Petition (Crl.) No. 15433 of 2023, Special Leave Petition (Crl.) No. 15294 of 2023 and Special Leave Petition (Crl.) Nos. 14734-14735 of 2023 are allowed. Special Leave Petition (Crl.) No. 14572 of 2023 and Special Leave Petition (Crl.) No. 14585 of 2023 are also allowed, subject to fulfilment of the aforesaid condition.

Headnotes prepared by: Ankit Gyan

Result of the case: Special Leave Petitions disposed of.