

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.17860 of 2015 and
M.P.No.1 of 2015

1.Mrs.Jayanthi Kannan
2.Aarthi
3.A.Kannan

.. Petitioners

Vs

1.State represented by
Inspector of Police,
Central Crime Branch,
EDF-I, Team - I, Vepery,
Chennai
(Crime No.244 of 2014)

2.S.Tarabai

3.C.Kalyan

... Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records and quash all further proceedings against the petitioners in "X" Crime No.244 of 2014 pending investigation on the file of the Inspector of Police, Central Crime Branch, Team - I, EDF - I Wing, Chennai.

For Petitioners :Mr.M.Nirmal Kumar
For R.1 :Mr.C.Emalias,
Additional Public Prosecutor
For RR2 & 3 :Mr.R.Sagadevan

ORDER

Seeking to quash the case in X.Crime No.244 of 2014 pending investigation on the file of the Inspector of Police, Central Crime Branch, Team - I, EDF - I Wing, Chennai, the petitioners have come up with this petition.

2. Heard the learned counsel for the petitioners; learned Additional Public Prosecutor appearing for the first respondent and the learned counsel for the second respondent/defacto complainant.

3.It is seen that on a complaint lodged by one C.Kalyan, the respondent police registered a case in X.Crime No.244 of 2014 for offence under Sections 408, 406, 420, 468 r/w 120(b) I.P.C., on 22.05.2014 against 7 persons including the petitioners herein. The gravamen of allegations in the F.I.R., is that the first accused by name Venkatesh Prabhu and some of the accused had joined in the partnership firm. The defacto complainant and the first petitioner Jayanthi Kannan were partners in M/s.Perfect Window Systems in which, Venkatesh Prabhu (A.1) who is the son of Jayanthi Kannan was appointed as an Auditor and he was also given the authority to manage the affairs of the firm. In the complaint, it is specifically alleged that the said Venkatesh Prabhu had systematically swindled the funds of the partnership firm by forging the signature of the defacto complainant.

4.Mr.M.Nirmal Kumar, learned counsel for the petitioners would submit that except the fact that the said Venkatesh Prabhu is the son of A.2, there are no other incriminating materials as against A.2. It is seen that Venkatesh Prabhu was arrested and the Police have also recorded his confession statement. It is also admitted that these petitioners have been enlarged on anticipatory bail.

5.On a reading of F.I.R., it cannot be stated that there are no materials at all for the Police to proceed with the investigation in this case. The involvement or otherwise of all these petitioners in the crime will come to light only if the investigation proceeds further. Hence, this Court cannot stifle the process of investigation, as it is at the stage of infancy. However, if the Police finds that the petitioners herein are not involved in the offence and there are no materials to implicate them, they have to necessarily be not included in the final report.

6.The contention of Mr.Nirmal Kumar, learned counsel for the petitioners that the petitioners are innocent persons is strongly refuted by the learned counsel for the defacto complainant and the learned Additional Public Prosecutor appearing for the first respondent, on the ground that the said Venkatesh Prabhu (Chartered Accountant) had misused his capacity thereby opening another bank account in the name of M/s.Perfect Windows Systems Private Limited, wherein, A.Kannan his father and his wife Aarthi are Directors.

7.Be that as it may, this Court cannot go into the disputed question of facts and that will be left open to the Investigating Officer to look into. Hence, this Criminal Original Petition is

closed with a direction to the respondent police to proceed with the investigation in accordance with law. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. Inspector of Police,
Central Crime Branch,
EDF-I, Team - I, Vepery,
Chennai.

2. The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.R.Sagadevan, Advocate SR 36812

+ 1 cc to Mr.Nirmal Kumar, Advocate SR 36831

rj(co)
prk4/8



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