

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 03.09.2015

DELIVERED ON : 08.09.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.Nos.19476 and 20940 of 2015

1.G.Krishnamoorthy @ G.Kitchaa

2.P.V.Prasad

... Petitioner/Accused in
Crl.OP.19476/2015

Tamil Kumaran @ A.Kumara Vadivelu

Crl.OP.20940/2015

... Petitioner in

Vs

1.State represented by Sub Inspector of Police

Central Crime Branch, Team 2

Vepery, Chennai 600 007.

... Respondent/Respondent

2.M/s Tamil Cinemas

Rep by its Proprietor

Mr.Tamil Kumaran @ A.Kumara Vadivelu

No.108, Muthiah Mudali Street

Teynampet

Chennai 600 086.

.. Respondents /

Defecto complainant in Crl.OP.19476/2015

State rep by

Sub Inspector of Police

Central Crime Branch Team 2

Vepery, Chennai 600 007

Crime No.118/2012.

Crl.OP.20940/2015

.. Respondent in

Criminal Original Petition No.19476 of 2015 filed under Section 482 Cr.P.C. to call for the records and quash the FIR booked vide Cr.No.118 of 2012 on the file of Sub Inspector of Police, Central Crime Branch, Team-2, Vepery, Chennai 600 007, lodged by the 2nd respondent herein pending before the XI Metropolitan Magistrate Court, Saidapet, Chennai 600 015.

Criminal Original Petition No.20940 of 2015 filed under Section 482 Cr.P.C. to direct the respondent police to investigate

the matter in proper manner to file a final report in Cr.No.118/2012 on the file of the respondent police.

IN CRL.O.P.NO.19476 OF 2015:

For Petitioners Mr.S.Sundar
For R1 Mr.C.Emalias, Addl.Public Prosecutor
For R2 Mr.K.Venkatesan

IN CRL.O.P.NO.20940 OF 2015:

For Petitioner Mr.K.Venkatesan
For Respondent Mr.C.Emalias, Addl.Public Prosecutor

COMMON ORDER

Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor.

2 On a complaint lodged by the second respondent, the police registered a case in Cr.No.118 of 2012 on 29.02.2012 under Sections 420 r/w 109 and 506(i) IPC against the petitioners herein, challenging which they are before this Court.

3 It is the case of the defacto complainant in the FIR that, Prasad [A2] was directing a Tamil Film [Kadhalil Vizhundhaen] and the defacto complainant was interested in taking up the production of the film and had given advance of Rs.15 lakhs by cheque on 24.10.2008 to Prasad [A2]. Thereafter, there were several rounds of discussions and they went to Bombay in search of heroes and in the mid way, there was a dispute between the hero they chose and Prasad [A2] on account of which, the hero abandoned his call sheets. In the meantime, the defacto complainant had invested around Rs.62 lakhs. The dispute between the defacto complainant and Prasad [A2] widened and therefore, Krishnamoorthy [A1] came into the picture and undertook to complete the production by promising to pay the amounts due to the defacto complainant. Therefore, they entered into an agreement dated 13.11.2009 under which the accused agreed to return Rs.50,58,662/- to the defacto complainant and also gave two cheques dated 05.12.2009 and 05.01.2010. Strangely, their relationship further continued and the defacto complainant paid another sum of Rs.5 lakhs and entered into an agreement on 10.09.2011 with the accused, under which he was given TV Satellite rights and cassette royalty. Ultimately, the film was released, but, it did not fetch the desired returns. Hence, the defacto complainant lodged the present complaint, based on which the respondent has registered a case, as aforesaid.

4 Learned counsel for the defacto complainant submitted that the petitioners/accused had cheated him by not returning the amount. According to the learned counsel for the petitioners/accused, the parties had entered into a compromise and the entire matter was settled. This was strongly

refuted by the learned counsel for the defacto complainant.

5 This Court carefully perused the three agreements dated 13.11.2009, 30.04.2010 and 10.09.2011 that were produced by the defacto complainant about which there is clear reference in the FIR. On a reading of the agreements, it is

clear that, there was no deception at inception. The parties entered into the venture of taking a film hoping that it will be a box-office hit, but unfortunately, it failed and that cannot be a reason for the defacto complainant to turn around and say that he has been cheated. Admittedly, the defacto complainant has also filed several suits against the accused, which are pending.

6 In the result, the FIR is a clear abuse of process of law and accordingly, the same is quashed and the petitions stand allowed.

-Sd/-

Assistant Registrar(cs-II)

//True copy//

Sub Assistant Registrar

gms
To

1. The XI Metropolitan Magistrate,
Sadiapet, Chennai
2. The Sub Inspector of Police
Central Crime Branch Team 2
Vepery, Chennai 600 007
3. The Public Prosecutor
High Court of Madras
Chennai 600 104

+2 cc to Mr.S.Sundar, Advocate(sr.48551)

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Pre-delivery order in

Crl.O.P.Nos.19476 and 20940 of 2015

AD(co)
cp 28/09/2015