

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP No.20740 of 2015

and

M.P.Nos.1& 2 of 2015

1.C.Gomathi Shankar

2.Valli Kalyan

3.R.Preethi

.. Petitioners

Vs

N.Rajkumar

Director of M/s.Sieger

Training Consultants

Private Limited,

No.2, Nagaraja Iyer Street,

Velacheri Main Road,

East Tambaram,

Chennai - 600 059.

.. Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the entire records relating to the C.C.NO.320 of 2014 pending on the file of learned Judicial Magistrate, Tambaram and quash all further proceedings therein.

For Petitioners :Mr.G.Saravanan

ORDER

This criminal original petition has been filed to call for the entire records relating to the C.C.NO.320 of 2014 pending on the file of learned Judicial Magistrate, Tambaram and quash all further proceedings therein.

2. Heard the learned counsel appearing for the petitioners.

3. It is seen that the respondent herein has filed a private complaint for various offences which has been taken on file of the learned Judicial Magistrate, Tambaram in C.C.No.320 of 2014 and process has been issued for the appearance of the petitioners/accused herein.

4. The learned counsel for the petitioners submits that the complainant has filed proof affidavit before the trial Court on 23.07.2015, which is illegal and he further submits that the prayer

in the complaint is for a direction to the police under Section 156 (3) Cr.P.C. but instead of sending the complaint to the police for investigation, the learned Magistrate has taken it on file.

5. As regards the first contention, that proof affidavit has been filed, this Court is of the view that in criminal cases, the evidence of the witnesses should be recorded in the presence of the accused and the procedure of filing proof affidavit is permitted only in certain enactment like the Negotiable Instruments Act. However, on this ground alone, the prosecution cannot be quashed.

6. As regards the second contention, the complainant can make any prayer, but it is always open to the learned Magistrate to either send the complaint for police investigation under Section 156 (3) Cr.P.C or proceed to take cognizance of the offence disclosed in the complaint. The learned Magistrate had adopted the latter course and therefore, the same cannot be said to be illegal.

In the result, this petition is dismissed with a direction to the learned Judicial Magistrate, Tambaram, not to proceed on the proof affidavit if filed by the complainant, but instead, direct the complainant to examine his witnesses in the open court. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

sms
To

1. The learned Judicial Magistrate,
Tambaram.

+ 1 cc to M/s.G. Saravanan, Advocate SR.45072

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PPA(CO)
Eu 11.09.15

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