IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2015

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP No.21729 of 2015
and
M.P.Nos.1 and 2 of 2015

K.R.Latha ...Petitioner

Vs

1.The State rep by
Inspector of Police 7th Team
Central Crime Branch
Vepery, Chennai
(Crime No.50/2015)

2.Hema Bindhu ...Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records relating to Crime No.50/2015 on the file of Central Crime Branch, 7th Team, Vepery, Chennai and quash the same.

For Petitioner	:	Mr.UM.Ravichandran
For R1	:	Mr.C.Emalias, Addl.Public Prosecutor
For R2	:	Mr.S.Sadasharam

ORDER

This petition has been filed to call for the records relating to Crime No.50/2015 on the file of Central Crime Branch, 7th Team, Vepery, Chennai and quash the same.

2. Heard the learned counsel for the petitioner, learned Additional Public Prosecutor appearing for the State and the learned counsel for the defacto complainant.

3. It is seen that on a complaint given by one Anbarasu, the respondent police registered a case in CCB Cr.No.232 of 2014 for offences under Sections 406 and 420 IPC and after completing the investigation has filed Final Report in C.C.No.10176 of 2014 before the learned Chief Metropolitan Magistrate, Egmore, Chennai for offences under Sections 406 and 420 IPC. The crux of the allegation in the Final Report is that, K.R.Latha, the petitioner [A1] was running various unauthorised and unregistered Chit Schemes and Prize money Schemes between 2010 and 2012 and had collected money from subscribers, promising to return the same with fancy interest, but had failed to adhere to the promise. In this regard, after the registration of the FIR on the complaint given by Anbarasu, seven other persons who were similarly cheated by K.R.Latha approached the police. Therefore, those seven persons were included as witnesses in the Final Report in C.C.No.10176 of 2014. It is an admitted fact that K.R.Latha was arrested by the police in Cr.No.232 of 2014 and was released on bail. It appears that during the same period, Hema Bindhu [defacto complainant] in Cr.No.50 of 2015 appears to have had similar transactions with K.R.Latha, but through a conduit by name Saraswathi and it is the grievance of Hema Bindhu that money paid by her during the same period and also money collected by her from various persons were not returned by K.R.Latha.

4. On 04.08.2014, Hema Bindhu lodged a complaint to the respondent police alleging that K.R.Latha was introduced to her by Saraswathi in the year 2012 and that she had invested money with K.R.Latha which she had failed to return. After this complaint was lodged, it is admitted by both sides that, a compromise was entered into between K.R.Latha and Hema Bindhu, whereby K.R.Latha agreed to pay Rs.75 lakhs, out of which she paid Rs.10 lakhs by cash and Rs.5 lakhs by cheque and the balance sum she had agreed to pay every month at the rate of Rs.5 lakhs per month. Therefore, the parties entered into a Memorandum of Understanding on 27.08.2014 and Hema Bindhu gave a letter dated 27.08.2014 to the police withdrawing her complaint dated 04.08.2014. When Hema Bindhu presented the cheques given by K.R.Latha, they got dishonoured and therefore, Hema Bindhu has given a fresh complaint on 17.12.2014, based on which the respondent has registered a second FIR in Cr.No.50 of 2015 against Hema Bindhu and Saraswathi for offences under Sections 406 and 420 r/w 34 IPC, challenging which K.R.Latha is before this Court.

5. Mr.Ravichandran, learned counsel for the petitioner contended that, for the same transaction a second FIR has been

registered, which is illegal. This submission was strongly refuted by Mr.Sadasharam, who submitted that the transactions concerning Anbarasu in C.C.No.10176 of 2014 has nothing to do with the transactions of Hema Bindhu.

6. This Court gave its anxious consideration to the rival submissions and perused the records. The crux of the allegation of both Anbarasu and Hema Bindhu is that, K.R.Latha was running unauthorised chits, prize money schemes from 2010 to 2012 and during that period has collected money from Anbarasu, Hema Bindhu and several others. Therefore, the allegation against K.R.Latha is for running such Schemes illegally and cheating subscribers. When Anbarsu lodged the first complaint, the respondent police registered a case and subsequently, when 7 other subscribers came to the police with similar allegation, their complaints were treated as 161 Cr.P.C. statements and they were also shown as witnesses in the Final Report.

7. In the considered opinion of this Court, Hema Bindhu falls within the same category and she should have been cited as a prosecution witness, whereas, she entered into a private deal with K.R.Latha and obtained pecuniary advantage to a tune of Rs.10 lakhs and after the cheques given by K.R.Latha had bounced, she has lodged the present complaint, based on which a second FIR for the same transaction has been registered by the police. Section 220(1) and (2) Cr.P.C. makes it very clear that, a person can be charged for various offences committed in the course of same transaction. In this case, the transaction is the act of K.R.Latha running an unauthorised chit, illegal prize money schemes and collecting money from subscribers. Therefore K.R.Latha is liable to be prosecuted under Section 220(1)Cr.P.C. for having cheated Anbarasu, 7 others and also Hema Bindhu and any other persons who was due during the relevant period.

8. Mr.Sadasharam, learned counsel submitted that in the complaint given by Hema Bindhu, she has implicated one Saraswathi also who has acted as a go between. If police are able to gather materials to show that Saraswathi was in league with K.R.Latha, it is needless to say that Saraswathi can be prosecuted as a co-accused by virtue of Section 223 Cr.P.C. Therefore, in the opinion of this Court, the second FIR lodged at the instance of of Hema Bindhu is consequently an abuse of process of law. It is always open to the police to file an application under Section 173(8) Cr.P.C. in C.C.No.10176 of 2014 and conduct further investigation and file a supplementary Final Report against all persons who were

involved in the offence.

9. Learned Additional Public Prosecutor submits that Hema Bindhu herself is in the Zone of suspicion and there are complaints against her by various subscribers and in order to cover up the same, she has lodged the present complaint. Therefore, a further investigation becomes imperative in this case.

In the result, this petition is allowed and the FIR in Cr.No.50 of 2015 is quashed. Liberty is given to the respondent police to file an application under Section 173(8) Cr.P.C. to conduct further investigation in C.C.No.10176 of 2014 on the file of the Chief Metropolitan Magistrate, Egmore, Chennai and file supplementary Final Report in accordance with law. It is needless to say that K.R.Latha cannot be arrested again and again based on subsequent complaints by subscribers like Hema Bindhu. However, such an immunity is not available to Saraswathi. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

gms

To

1.The State rep by
Inspector of Police 7th Team
Central Crime Branch
Vepery, Chennai.

2. The Chief Metropolitan Magistrate,
Egmore, Chennai.

3.The Public Prosecutor,
High Court, Madras.

1 CC to Mr.UM.Ravichandran, Advocate SR.No. 56788
1 CC to Mr.S.Sadasharam, Advocate SR.No. 56719

Crl.OP No.21729 of 2015

TEJ (CO)
PSI (26.10.2015)