

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 05.08.2015

DELIVERED ON : 17.08.2015

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.O.P.Nos.29160 of 2014

and M.P.No.1 of 2014

Paulraj

.. Petitioner

Vs

1.The Inspector of Police
Kundrathur Police Station
Kundrathur
Chennai 600 069.

2.John Decasta @ Decasta

.. Respondents

Prayer:- Criminal Original Petitions filed under Section 482 Cr.P.C. to call for the records of the charge sheet in C.C.No.170 of 2014, pending on the file of the learned Judicial Magistrate, Sriperumpudur and quash the same as against the petitioner.

For Petitioner
For R1

Mr.S.Radhakrishnan
C.Emalias Additional Public
Prosecutor

O R D E R

This petition has been filed to call for the records of the charge sheet in C.C.No.170 of 2014, pending on the file of the learned Judicial Magistrate, Sriperumpudur and quash the same as against the petitioner.

2. For the sake of convenience, the parties will be referred to as the defacto complainant and accused.

3. On a complaint lodged by the defacto complainant, the respondent police registered a case in Cr.No.877 of 2013 on 07.06.2013 under Section 380 IPC against the accused and after completing the investigation filed a Final Report in C.C.No.170 of 2014 before the learned Judicial Magistrate, Sriperumbudur,

challenging which the accused is before this Court for quashing the same.

4. It is the case of the defacto complainant that he was into Real Estate business and the accused was working as a Clerk under him and that he had stolen some documents from his Office, on coming to know of which the complaint was lodged as stated above.

5. The learned counsel for the accused submitted that the accused was a partner of the defacto complainant and that the defacto complainant had to pay a huge amount towards commission for securing business. In this regard, the learned counsel for the accused relied upon a note dated 31.03.2013 to show the amount of money that was due to him from the defacto complainant.

6. The respondent police have filed a counter in which, after narrating the accusation made in the FIR, have stated as follows in paragraphs 3,4 and 5:

"3. It is submitted that I have visited to the scene of occurrence and prepared rough sketch and observation mahazar in the presence of witnesses, namely 1) Tr.Kutty @ Thangachalam 2) Tr.Raj and examined the following witnesses and recorded their statements.

- 1) Tr.John Decasta @ Decasta - complainant.
- 2) Tmt.Sahayamary
- 3) Tr.Sundar - staff of the complainant

All of them have corroborated the same version of the complaint.

4. On 24.10.2013 at Nandambakkam Bus stand, I have arrested the petitioner/accused and recorded his confession statement and based on his confession, I have visited to the residence of the petitioner/accused and seized the following items which are mentioned below in the presence of witnesses, namely. 1) Tr.Arumugam, 2) Tr.K.Murugan and he was remanded to judicial custody.

- 1) Gunasekaran, Doc.No.772/11 Page No.1 to14
- 2) R.Nirmala, Doc.No.3626/11 Page No.1 to 24
- 3) K.Vadivelu, Doc.No.1420/09 Page No.1 to14
- 4) R.Ramadevi Doc.No.4390/11 Page No.1 to 26
- 5) A.Selvi, D.No.3624/11 Page No.1 to 30
- 6) M.Gejalakshmi, Doc.No.3625/11 Page No.1to30
- 7) S.Baskaran, Doc.No.6674/12 Page No.1 to24
- 8) N.Malar, Doc.No.4829/12 page No.1 to 24
- 9) D.Devi, Doc.No.9218/12 Page No.1 to 24

5. It is submitted after completion of the detailed investigation, on 24.02.2014, I have laid a charge sheet and submitted the same before the Judicial Magistrate Court, Sriperumbudur. The said court has taken it on file vide C.C.No.170 of 2014 dated 20.05.2014. Now, the case is pending trial and was posted for next hearing on 20.05.15 for examination of witnesses."

7. On perusal of the note dated 31.03.2013 it is evident that, the accused has not been referred to as a partner in SDR Promoters run by the defacto complainant. At the most, the note only shows that some amount of money is due as commission to the accused. Whereas, after the arrest of the accused, the respondent police have recovered the aforesaid documents from his possession which are all sale deeds executed by the defacto complainant in favour of certain individual parties.

8. The learned counsel for the accused submitted that the documents were entrusted by the defacto complainant by a letter dated 17.04.2013 for delivering them to various purchasers of land after getting the commission due from them. This is a disputed question of fact which cannot be looked into in proceedings under Section 482 Cr.P.C. Since there are prima facie materials collected by the police against the petitioner, the proceedings cannot be quashed in the light of the law down by the Supreme Court in State of Haryana vs. Bhajan Lal [AIR 1992 SC 604].

In the result, this petition is devoid of the merits and the same is dismissed. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

gms

To

1.The Judicial Magistrate
Sriperumpudur

2.-Do-Thro The Chief Judicial Magistrate
Kancheepuram

3.The Inspector of Police
Kundrathur Police Station
Kundrathur
Chennai 600 069.

4.The Public Prosecutor
High Court, Madras.

CrI.O.P.Nos.29160 of 2014

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