

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2015

CORAM

The Hon'ble Mr. Justice R.S.Ramanathan

Crl.O.P.No.17886 of 2008
and
M.P.No.1 of 2008

1. N.Kollappan
2. Shanmugavadivu

...Petitioners/ Accused 2 & 3

vs.

M/s.Holy Faith International Pvt. Ltd.,
rep. by its Manager,
W.Sam Branch Manager,
No.26 B/2 SIDCO Industrial Estate,
North Phase, Omalur,
Chennai, Branch Office No.47,
Kalathi Pillai Street,
Soukarpeth, Chennai - 600 079.

...Respondent/
Complainant

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code to call for records in C.C.No.10603 of 2007, pending on the file of III Metropolitan Magistrate Court, George Town, Chennai, and to quash the same insofar as the petitioners are concerned.

For Petitioner : Mr.N.Umapathi

For Respondent : No appearance

O R D E R

This Petition is filed to quash the proceedings in C.C.No.10603 of 2007, pending on the file of III Metropolitan Magistrate Court, George Town, Chennai, insofar as the petitioners are concerned, who are arrayed as A2 and A3.

2. The respondent filed a complaint against the petitioners and their son, by name K.Sathiya Narayanan, arrayed as accused No.1 for having committed the offence under Sections 406, 418, 420, 468 read with Section 34 IPC.

3. It is submitted by the learned counsel for petitioners that, even according to the complaint, the first accused was working as Marketing Executive under the complainant, and he collected money to the tune of Rs.2,00,000/- from various Schools for the books supplied to them, but, did not remit the said amount to the complainant. It is further submitted that the first petitioner/accused No.2 and second petitioner/accused No.3 are parents of accused No.1. The first petitioner/father has given security for the conduct and character of first accused and the second petitioner/mother has given an undertaking in two Ten Rupees stamp paper that she would repay the misappropriated sum of Rs.2,00,000/- and a reading of the complaint makes it clear that the second petitioner executed promissory demand drafts agreeing to repay Rs.2,00,000/- misappropriated by her son/accused No.1 and thereafter, she did not repay the amount. Therefore, the case was taken cognizance by the learned III Metropolitan Magistrate Court, George Town in C.C.No.10603 of 2007 against the petitioners and no offence has been committed by the petitioners.

4. Though the respondent was served, he refused to receive the notice. Hence, the name of the respondent was directed to be printed in the causelist. Even then, there is no representation for the respondent, when the matter is taken up today.

5. I have gone through the complaint filed by the respondent against the petitioners and accused No.1. As rightly submitted by the learned counsel appearing for petitioners, no allegations were made to take cognizance of the case against the petitioners for offence under Sections 406, 418, 420, 468 read with Section 34 IPC. It is only stated in the complaint that the first petitioner/accused No.2/father of accused No.1 gave certificate about the conduct and character of his son/accused No.1. Insofar as the second petitioner, the mother of accused No.1 is concerned, she has given an undertaking to repay the amount, misappropriated by her son/accused No.1, and did not repay the amount. According to me, the allegations did not warrant action against the petitioners. As no offence has been made out against the petitioners, this Criminal Original Petition is allowed and the complaint in C.C.No.10603 of 2007 is quashed against the petitioners herein alone are concerned. Consequently, connected M.P. is closed.

Sd/-
Asst.Registrar (AD I)

/true copy/

Sub Asst. Registrar

sd

To

1. The III Metropolitan Magistrate Court,
George Town, Chennai

2. do thro the Chief Metropolitan Magistrate
Chennai

CrI.O.P.No.17886 of 2008

KK (CO)
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