

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.06.2015

DELIVERED ON : 11.06.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.18799 of 2013 and M.P.Nos.1 and 2 of 2013

1.R.Jayaprakash

2.V.Jayaprakash

3.Ramesh Kumar

...Petitioners

Vs

The State

Rep by Inspector of Police

Central Crime Branch

Salem City

(Crime No.4 of 2002)

.. Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.121 of 2005 pending on the file of the Chief Judicial Magistrate, Salem and quash the same as far as the petitioners are concerned.

For Petitioners Mr.A.Nagarathinam

For Respondent Mr.C.Emalias

Additional Public Prosecutor

ORDER

This petition has been filed to call for the records in C.C.No.121 of 2005 pending on the file of the Chief Judicial Magistrate, Salem and quash the same as far as the petitioners are concerned.

2. On a complaint lodged by V.Jayaprakash [the second petitioner/A6], a case in Cr.No.4 of 2002 for offences under Sections 420, 120B IPC r/w Section 4 and 5 Prize Chits Money Circulation Scheme (Banning) Act, 1978 was registered by the police on 25.04.2002 against Skyways Network Marketing. The gravamen of the allegation in the FIR is that, Skyways Network Marketing was in the business of multi-level marketing and V.Jayaprakash joined as a member for selling the products of Skyways Network Marketing and for enrolling members. It is stated in the FIR that, the products of Skyways Network Marketing were not of standard quality and persons to whom the products were sold were not happy with it. It is also alleged that the price of the products was on the higher side. It is further stated in the complaint that, when V.Jayaprakash approached Skyways

Network Marketing, where he was threatened by R.Jayaprakash [the first petitioner/A5]. Police completed the investigation in Cr.No.4 of 2002 and filed a Final Report against 10 accused, including V.Jayaprakash, who is the defacto complainant in this case. It is not illegal to make the defacto complainant himself as an accused in the Final Report, if during investigation there are incriminating materials. The said Final Report was taken on file as C.C.No.121 of 2005 by the learned Chief Judicial Magistrate, Salem and the matter is still pending trial. While so, R.Jayaprakash [A5], V.Jayaprakash [A6] and K.Rameshkumar [A7] have approached this Court for quashing the Final Report.

3. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the State.

4. On a thorough reading of the Final Report and the accompanying documents it is seen that, the police have shown V.Jayaprakash as A7 and they have also cited him as a first witness for the prosecution in the memo of evidence accompanying the Final Report, which is indeed very queer. Even assuming for a moment that it was inadvertently done, yet this Court searched for materials to find out if there is anything incriminating against the petitioners. It is not the prosecution case that Skyways Network Marketing had collected money from various persons and had not supplied the products. It is the prosecution case that the products supplied by Skyways Network Marketing were either of inferior quality or were higher price.

5. As regards R.Jayaprakash, there is material to show that he has threatened V.Jayaprakash. In view of the materials against him, this prosecution cannot be quashed. As regards V.Jayaprakash [A6] and K.Rameshkumar [A7], they were only members in the multi-level marketing chain and had canvassed for the products of Skyways Network Marketing. It is not the case of the prosecution that they entertained criminal intention of practising deception on those who purchased the products. Under such circumstances, this Court finds that this is a fit case to quash the prosecution as against V.Jayaprakash [A6] and Rameshkumar [A7]. Accordingly the prosecution as against V.Jayaprakash [A6] and Rameshkumar [A7] in C.C.No.121 of 2005 on the file of the learned Chief Judicial Magistrate, Salem are quashed. As regards R.Jayaprakash [A5], this petition stands dismissed. Consequently, connected miscellaneous petitions are closed.
gms

s/d-

Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

To

1.The Inspector of Police
Central Crime Branch
Salem City.

2.Chief Judicial Magistrate, Salem.

3.The Public Prosecutor,
High Court, Madras.

+ 1 cc to M/s.A.Nagarathinam, Advocate SR 28330

vd(co)
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Cr1.OP No.18799 of 2013



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