

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.07.2016

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.OP.No.15990 of 2016

L.Balasubramanian ... Petitioner
Vs

1.State represented by
Inspector of Police,
Central Crime Branch,
Egmore, Chennai - 8.

2.T.P.Gopal ... Respondents

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in connection with the final report in C.C.No.1649 of 2015 on the file of the learned Chief Metropolitan Magistrate, Egmore, Chennai and quash the same.

For Petitioner : Mr.R.Ramesh
For 1st Respondent : Mr.C.Emalias, APP

O R D E R

This petition has been filed to quash the proceedings in C.C.No.1649 of 2015 on the file of the Chief Metropolitan Magistrate Court, Egmore, Chennai.

2. Heard the learned counsel for the petitioner; learned Additional Public Prosecutor appearing for the 1st respondent and perused the materials placed on record.

3. On the complaint lodged by the 2nd respondent, the 1st respondent Police registered a case in X.Crime No.21 of 2014 and after completing the investigation, filed final report in C.C.No.1649 of 2015 before the learned Chief Metropolitan Magistrate, Egmore, Chennai against the petitioner herein and two others. Challenging which, the petitioner is before this Court.

4. The crux of the allegation in the final report is that this petitioner along with Sankara Srinivasan[A2] and Masilamani[A3] were office bearers of All India Overseas Bank Employees Union and that the Union had purchased a property in Mylapore, in which, a community hall was constructed. A Trust in the name of All India Overseas Bank Employees Union Welfare Charitable and Endowment Trust was floated, in which, the petitioner and the co-accused were President and Trustees respectively. It is alleged that the Trust had entered into a lease agreement in respect of the community hall with the Union, on a monthly rent of Rs.5,000/-, but the petitioner is charging Rs.75,000/- per day and were appropriating the money among themselves.

5. Mr.Ramesh, learned counsel submitted that the de facto complainant has no locus standi to lodge the complaint, inasmuch as disciplinary action was taken against him.

6. In the opinion of this Court, in cases of this nature, normally a disgruntled element will become the whistle-blower. Even if the de facto complainant's antecedents are bad, that cannot in anyway affect the criminal prosecution against the accused. It is further alleged that the petitioner and others had sold the property of the Union at a very low price and thereby, caused loss to the organisation.

7. Mr.Ramesh, learned counsel submitted that the same was done, pursuant to the resolution of the general body and not at the whims and fancies of the accused.

8. In the considered opinion of this Court, these are disputed questions of fact, which cannot be gone into in a petition under Section 482 Cr.P.C. Since there are prima facie materials to proceed against the petitioner, this is not a fit case to quash the prosecution and this petition stands dismissed, with liberty to the petitioner to raise all the points before the trial Court.

Anything observed herein is only for the limited purpose of deciding the quash application and the Trial Court is directed to decide the case on merits, without being influenced whatever observation made herein.

-s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

1.The Chief Metropolitan Magistrate,
Egmore, Chennai.

2.The Inspector of Police,
Central Crime Branch,
Egmore, Chennai - 600 008.

3.The Public Prosecutor,
High Court, Chennai.

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