

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 26.10.2016
CORAM
THE HONOURABLE MR.JUSTICE P.N.PRAKASH
Crl.OP.No.4605 of 2011 and MP No.1 of 2011

K.Balasubramaniam

... Petitioner

Vs

1. State rep. by Inspector of Police,
Central Crime Branch,
St. Thomas Mount, Chennai - 600 016.

2. S.G.V.Raman Iyer ... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records and quash the FIR in Cr.No.109 of 2009 on the file of the Inspector of Police, Chennai sub urban police, St.Thomas Mount, Chennai - 16.

For Petitioner : Mr.S.R.Mounaswamynathan

For R1 : Mr.C.Emalias,
Additional Public Prosecutor

For R2 : Mr.V.Venkatesan

ORDER

This Criminal Original Petition has been filed seeking to call for the records and quash the FIR in Cr.No.109 of 2009 on the file of the Inspector of Police, Chennai sub urban police, St.Thomas Mount, Chennai - 600 016.

2. Heard the learned counsel for the petitioner, the learned Additional Public Prosecutor appearing for the first respondent and the learned counsel appearing for the second respondent.

3. On the complaint lodged by the Manager, Speed Post Concentration Centre, St.Thomas Mount Head Post Office, Chennai-16, the first respondent police registered a case in Cr.No.109 of 2009 for the offences u/s 409, 477-A IPC against the petitioner herein, challenging which the petitioner is before this Court.

4. In the complaint, it is alleged that the petitioner was working as a Counter Assistant from April 2007 and he was entrusted with the work of booking domestic and international Speed Post tendered by customers. He was also provided with the multi-purpose counter machine, the details of which are as follows:-

"(i) Prefixed postage stamps: It means that the articles which are presented at the counter should not have been affixed with the prescribed postage stamps after assessment of fee which to be informed by the counter clerk and the customer will affix postage stamps on the speed post articles for which the customer given the receipt.

(ii) S.S.Means Service Stamps. The speed post articles which are tendered by the Government institutions are affixed with the service stamps for which the concerned given the receipt.

(iii) F.M.means that articles which are franked. If any of the above three options are not used the customer supposed to book the articles by paying cash only which will be reflected in the net amount. In this case the official has booked the articles using option (i) above. While customers tendered can be only using this practice he detracted the amount he collected."

5. During a cursory check of the cash collection, it came to the notice of the authorities that from 14.11.2007 to 08.03.2009, the petitioner defalcated a total sum of Rs.16,70,362/- (Rupees sixteen lakhs seventy thousand three hundred and sixty two only) by manipulating the machines and records. In the complaint given by the de facto complainant, the entire details of defalcation have been given in extenso.

6. It is contended by the petitioner that he was issued with the charge memo in the departmental enquiry, which shows different amount and that the charge memo has been challenged by him before the Central Administrative Tribunal.

7. In the considered opinion of this Court, when the FIR discloses the commission of cognizable offence, pendency of collateral proceedings under service law cannot be a bar for the police to proceed with the investigation in Chapter XII of CPC. In State of Haryana & Others Vs. Bhajan Lal & others 1992 Supp (i) SCC 335, the Supreme Court has laid down the parameters for quashing the FIR and the nature of this case does not pass muster the law laid down therein. The learned Additional Public Prosecutor submitted that the investigation is almost complete and the final report is ready.

8. Under such circumstances, the first respondent police is directed to expeditiously complete the investigation and file charge sheet within six months from the date of receipt of a copy of this order.

9. With the above direction, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is also closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Inspector of Police,
Central Crime Branch,
St. Thomas Mount, Chennai - 600 016.

2. The Public Prosecutor,
High Court, Chennai.

+1 cc to Mr.V.Venkatesan Advocate sr 61654

Cr1.OP.No.4605 of 2011

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