

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2016

C O R A M

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CrI.O.P.No.20794 of 2016

1.Venkatachalapathy

2.V.Kothainayagi

3.Rajan

... Petitioners

Vs.

1.The Inspector of Police,
CBCID police,
Puducherry

2.P.Sukkaran

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C to call for the records of the case in Cr.No.14 of 2016, on the file of the 1st respondent police and quash the same.

For Petitioners : Mr.K.G.Senthil Kumar

For Respondents : Mr.Thangavel,
Additional Public Prosecutor
(Puducherry) [for R1]
Mr.S.V.Karthikeyan [for R2]

सत्यमेव जयते
O R D E R

This Criminal Original Petition has been filed to call for the records of the case in Cr.No.14 of 2016, on the file of the 1st respondent police and quash the same.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

3. The facts in this case have already been discussed in detail by this Court while deciding CrI.O.P.Nos.15150 of 2015 and 30486 of 2015 on 04.07.2016, which reads as under:

".....Crl.O.P.No.15150 of 2015 has been filed to direct the respondent police to register the petitioner's complaint dated 03.01.2015 and Crl.O.P.No.30486 of 2015 has been filed to direct the respondent to register the petitioner's complaint dated 09.10.2015.

2. For the sake of convenience, the parties will be referred to by their name. It is the case of Sukkaran that he wanted medical college admission for his son and so, he had paid Rs.56,50,000/- to Mahatma Gandhi Medical College, Puducherry, through certain brokers by name Rajan, Venkatachalapathy and Kothainaiyaki and after getting the money, admission was not got by them. It is admitted by Sukkaran that Rs.40,00,000/- was returned by the said College and some balance amount has not been paid. Hence, Sukkaran lodged a complaint dated 03.01.2015 to the Inspector of Police, Orleanpet Police Station, Puducherry and no action was taken, he has filed Crl.O.P.No.15150 of 2015 for a direction to the Orleanpet Police to register an FIR.

3. When the matter was taken up for hearing, Rajan, Venkatachalapathy and V.Kothainaiyaki filed impleading petition through Mr.Senthil Kumar, Advocate and they were impleaded as respondents 2 to 4 in Crl.O.P.No.15150 of 2015. In the open Court, a demand draft for Rs.1,00,000/- was handed over to Sukkaran by the accused/respondents 2 and 3 on 15.09.2015. At the request of parties, the matter was referred to the Mediation Centre, where it is admitted by Sukkaran that he had received Rs.75,000/-. The mediation talks failed and therefore, the matter is back to the Court.

4. In the meanwhile, one Manjini has lodged a complaint dated 09.10.2015 to the Inspector of Police [Crimes], R-5, Virugambakkam Police Station, alleging that in the same transaction concerning Sukkaran, she was cheated by one Basha, Madhaiyan, etc.

5. Taking into consideration the enormous nature of allegations, this Court is of the view

that it will be in the interest of justice, if the complaint given by Sukkaran and the complaint given by Manjini is directed to be investigated by the CBCID of Puducherry. Accordingly, the complaint dated 03.01.2015 given by Sukkaran to Orleanpet Police Station, Puducherry stands transferred to the file of the CBCID, Puducherry for investigation.

6. Liberty is given to Manjini to approach the CBCID, Puducherry and lodge a fresh complaint in-person containing the very same contents as stated in the previous complaint dated 09.10.2015, within two weeks from the date of receipt of a copy of this order. On receipt of such complaint, the CBCID, Puducherry is directed to enquire into along with the complaint of Sukkaran and proceed in accordance with law.

With the above direction, these petitions are closed. "

4. Pursuant to the aforesaid order, CBCID Puducherry has registered a case in Crime No.14 of 2016 on 03.09.2016 under Sections 420, 342 and 506 IPC read with Section 34 IPC against Dr.K.Vengatachalapathi, Kothainayagi and Dr. Rajan to quash which the accused are before this Court on the ground that they have arrived at an amicable settlement with P.Sukkaran.

5. Today, P.Sukkaran is present before this Court and is identified by his advocate Mr.S.V.Karthikeyan, (Enrollment No.1720 of 2002). He has filed an affidavit, wherein at paragraphs 5 and 6, it is stated as follows:

"5. I state that this Hon'ble Court by an order dated 04.07.2016, was pleased to transfer my complaint dated 03.01.2015 from Orelanpet Police to the file of the 1st respondent for further enquiry with direction to register a case if cognizable offence is made out. I state that thereafter the petitioners have approached for an amicable settlement of the issue and I agreed for the same. Accordingly, I have received the entire amount and shall receive the original cheque bearing No.006767, filed in CrI.M.P.No. 2818 of 2015, on the file of the Judicial Magistrate-II, Puducherry after the complaint is withdrawn by Mr.Pandiyan. I further undertake to withdraw the complaint in STC No.309 of 2016, on the file of Judicial Magistrate, Attur and return the cheques

bearing Nos.401627 & 401628 issued by the petitioners.

6. I state that my entire claim in respect of the petitioners have been settled and I undertake that I shall not make any further claim in this regard with the petitioners. Hence, I have no objection in quashing the case in Cr.No.14 of 2016, on the file of the 1st respondent police based on my complaint dated 03.01.2015."

6. Mr.A.Thangavel, learned Additional Public Prosecutor submitted that the respondent police have objections to the quashing of the FIR on the ground that the allegations in the complaint are indeed very serious in nature and require a thorough probe. It is his contention that Puducherry is an educational hub and thorough investigation by CBCID will reveal who are all involved in this racket.

7. At the first blush, his objections did sound convincing. But, on a closer scrutiny of the facts of the case, it is seen that the transaction between P.Sukkaran and the accused had taken place sometime in the year 2014 and thereafter there has been other litigations including the prosecution under Section 138 of the Negotiable Instruments Act against P.Sukkaran launched by one Pandian, the father of Kothainayagi before the Judicial Magistrate Court No.II, Puducherry.

8. Similarly, P.Sukkaran has arranged to initiate prosecution under Section 138 of the Negotiable Instruments Act against Dr.Venkatakachalapathy in STC.No.309 of 2016, on the file of the Judicial Magistrate Court, Attur through one Periyasamy.

9. From a conspectus of the facts obtaining in this case, this Court is able to infer that a private dispute between P.Sukkaran and the accused has been blown out of proportion resulting in this Court ordering CBICID of Pondicherry to register FIR on the complaint of P.Sukkaran.

10. In the considered opinion of this Court, the precious time of CB-CID of Puducherry will be wasted if further investigation is proceeded inasmuch as P.Sukkaran, having received money from the accused, would not support the prosecution case.

11. Similarly, Manjini is before this court and he has filed an affidavit stating as follows:

"2. I state that I have filed a petition for a direction to direct the R-5, Virugampakkam Police Station to register a case in Crl.O.P.No.30486/2015 for my complaint dated 09.10.2015. One Kothainayagi have approached me for obtaining a Medical seat for one Barkunan, son of Sukkaran and I along other have approached M/s. Tamil Nadu Educational Consultancy having office at SBM Complex, 1st Floor, Coimbatore Road, Ariyanur, Salem. I state that the said consultancy have fixed a sum of Rs.57,00,000/- for getting admission and accordingly as instructed by the said Consultancy, we have paid a sum of Rs.40,00,000/- to the Administrative officer of the said Consultancy and Rs.10,00,000/- in the office of the said Consultancy at No.73, Kamarajar Salai, Baskaran Colony, 2nd Floor, Virugambakkam, Chennai 92.

3. I state that there the said consultancy was not able to get admission as assured by them and hence a sum of Rs.40,00,000/- was returned directly by the college. I state that the remaining sum of Rs.10,00,000/- paid with the consultancy office in Virugambakkam was not paid and hence I lodged a complaint with the R-5, Virugambakkam police to take action on the said Consultancy for having cheated myself and the persons approached through me.

4. I state that thereafter I understood that the said Sukkaran have filed Crl.O.P.No.15150 of 2015, on the file of this Hon'ble Court regarding the same issue and hence a mention was made to take my Crl.O.P.No.30486 of 2015 along with the above Crl.O.P.No.15150 of 2015.

5. I state that while the matter was heard, this Hon'ble Court by an order dated 04.07.2016 was pleased to refer the complaint of to the said Sukkaran to CBCID police, Puducherry and I was given liberty to approach the CBCID, Puducherry and file a fresh complaint regarding the issue. I state that thereafter the said Sukkaran and the respondents in Crl.O.P.No.15150 of 2015, namely, Mr.Rajan, Mr.Venkatachalapathy and Mrs.Kothainayagi have entered into a compromise with the said Sukkaran and the issue was settled amicably.

6. I State that in the said circumstances and in view of the matter being settled among the parties. I state that I undertake to withdraw my complaint dated 09.10.2015 now transferred to 1st respondent....."

12. In view of the above, this Court is of the view that it will be in the interest of justice if the FIR in Crime No.14/2016 is quashed, but, on condition that the petitioners herein pay a sum of Rs.25,000/- as costs to the Tamil Nadu State Judicial Academy within four weeks from the date of receipt of a copy of this order. It is made clear that quashment of the FIR does not preclude the police from registering a fresh case against the petitioners, if a complaint is received from any other person.

With the above observation, this petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

pvs / cad

To

1.The Inspector of Police,
CBCID police,
Puducherry.

2.The Public Prosecutor(Pondicherry),
High Court, Madras.

+3cc's to Mr.S.V.Karthikeyan, Advocate, S.R.No.51450
+1cc to Mr.K.G.Senthil Kumar, Advocate, S.R.No.51479
+1cc to the Government Pleader(Pondy), S.R.No.52089

Cr1.O.P.No.20794 of 2016

SV(CO)
CA(23/09/2016)