

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2016

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.38678, 38679 and 40399 of 2016
and

W.M.P.Nos.33131, 33132 and 34470 of 2016

Dr.Andal Arumugam .. Petitioner in
W.P.No.38678 of 2016
T.M.Singaravel .. Petitioner in
W.P.No.38679 of 2016
J.Mohan .. Petitioner in
W.P.No. 40399 of 2016

Vs

- 1.The Commissioner of Police,
Chennai City, Chennai.
 - 2.The Inspector of Police,
Sri Krishna Puri Police Station,
Patna, Bihar.
 - 3.M/s.Om Astha Construction Pvt.Ltd.,
rep.by its Managing Director,
Regd.Office
No.301, Majestic Vishnu Apartment
(In front of Janpriya Apartment),
North S.K.Puri, Boring Road,
Patna, Bihar-800 103.
- .. Respondents in all the
writ petitions

Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the respondents 1 and 2, their men, agents or servants from in any way executing any warrant for arrest in pursuant to registration of the FIR in Crime No.263 of 2014 on the file of Sri Krishna Puri Police Station, Patna, Bihar, the second respondent herein.

For Petitioner in all W.Ps.	: Mr.B.Kumar, Sr.Counsel for Mr.S.Ramachandran
For Respondents in all W.Ps.	: Mr.C.Emalias, Additional Public Prosecutor

COMMON ORDER

These writ petitions have been filed for issuance of a Writ of Mandamus forbearing the respondents 1 and 2 from in any way executing any warrant for arrest pursuant to the registration of the First Information Report in Crime No.263 of 2014 on the file of Sri Krishna Puri Police Station, Patna, Bihar.

2.The petitioner in W.P.No.38678 of 2016 is the Managing Director, the petitioner in W.P.No.38679 of 2016 is the Director and the petitioner in W.P.No.40399 of 2016 is the General Manager (Planning), respectively, of M/s.RKM Powergen Pvt. Ltd. For commissioning the power project at Chattisgarh, the petitioner company had engaged a company by name M/s.Axon Construction Pvt. Ltd. ("M/s.Axon" in short) for the civil work relating to the power project. In this process, the said M/s.Axon had entered into a contract with another company M/s.Om Astha Construction Pvt. Ltd. ("M/s.Om Astha" in short), a company registered in the State of Bihar. The petitioners state that M/s.Axon and M/s.Om Astha have entered into a separate agreement under which M/s.Axon entrusted a portion of the civil work to be executed by M/s.Om Astha. Thereafter, various transactions took place between them in respect of the business. A dispute arose between them in respect of the contract. According to the contract entered into between them, in case of any dispute touching the subject matter of the contract, the matter shall be referred to arbitration, ie., M/s.Axon shall nominate a sole arbitrator, and that the venue for resolution of any dispute shall be at Chennai. A sole arbitrator was appointed, who issued notice to all the concerned parties and thereafter, by a detailed order dated 07.09.2016, the learned Arbitrator decreed the claim of M/s.Axon and rejected the pleas taken by M/s.Om Astha. While so, M/s.Om Astha filed a complaint before the second respondent alleging offences under Section 420 IPC and other offences not only against M/s.Axon, but also against the petitioners in their capacity as Directors of M/s.RKM Powergen Pvt. Ltd, and the very same contract is made a basis for the First Information Report. The second and third respondents, in violation of all norms, have obtained a warrant for arrest of the petitioners. Hence these writ petitions.

3.The learned senior counsel appearing for the petitioners submitted that the petitioners have nothing to do with M/s.Axon Construction Pvt. Ltd, as alleged in the complaint lodged before the police authorities in Patna, Bihar State. Further, according to the learned senior counsel, the dispute between M/s.Axon Construction Pvt.Ltd.as well as M/s.Om Astha Construction Pvt.Ltd., the third respondent herein, met with Arbitral Proceedings and on the basis of the award, everything has been proceeded with. In these circumstances, on false allegations, the present complaint has been filed. Stating so, the learned senior counsel prayed for allowing these writ petitions.

4.Mr.C.Emalias, learned Additional Public Prosecutor, took notice for the respondents.

5.Heard the learned counsel on either side and perused the materials available on record.

6.When the matter earlier came up for admission, this Court ordered private notice to the defacto complainant which is yet to be served. Now the warrant is pending execution. Considering the facts and circumstances, this Court is inclined to dispose of the main writ petitions itself. At this juncture, it would be appropriate to refer to the order passed by this Court in W.P.No.25521 of 2015 dated 25.11.2016, wherein this Court has considered the law relating to the jurisdiction of this Court to issue a writ for quashing First Information Report registered in a Police Station outside the State of Tamil Nadu, by referring to various judgments. It was held in that order that even though the First Information Report registered in a police station outside the State of Tamil Nadu deserves to be quashed, yet, judicial discipline demands that this Court should not trespass into the territorial jurisdiction of the Court outside Tamil Nadu and assume the power to quash the First Information Report, especially in the light of the reasoning given in the case of S.Ilanahai v. The State of Mumbai and others, reported in 2015-1-LW (Cr1.) 395.

7.In the light of the said proposition laid down by this Court in W.P.No.25521 of 2015 dated 25.11.2016, and further, in the present case, there is existence of Arbitral Proceedings between the third respondent and M/s.Axon Construction Pvt.Ltd., as an interim measure, the warrant for arrest in pursuant to registration of the First Information Report in Crime No.263 of 2014 on the file of Sri Krishna Puri Police Station, Patna, Bihar State, shall be kept in abeyance for a period of eight weeks from today and the matter is left to be dealt with by the High Court within whose jurisdiction, the First Information Report has been registered, in accordance with law.

8.With the above interim protection, these writ petitions are disposed of, with liberty to the petitioners to approach the High Court, within whose jurisdiction, the First Information Report has been registered, within a period of eight weeks from today. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To

1.The Commissioner of Police,
Chennai City, Chennai.

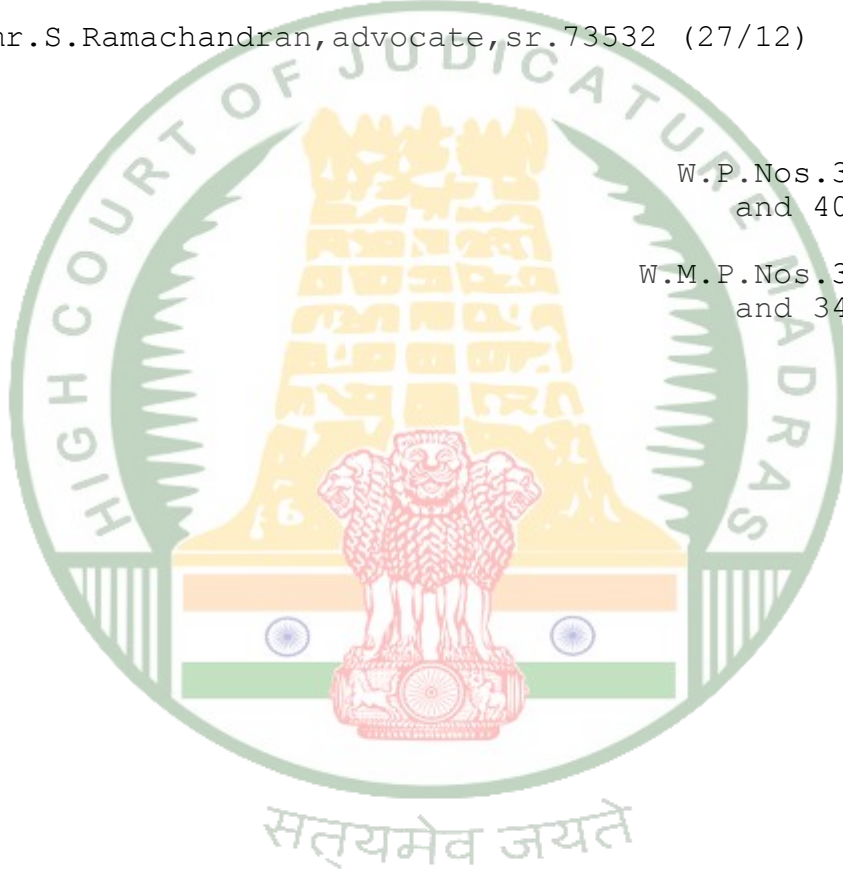
2.The Inspector of Police,
Sri Krishna Puri Police Station,
Patna, Bihar.

3.The Public Prosecutor,
Madras High Court,
Chennai-600 104.

+1 cc to mr.S.Ramachandran,advocate,sr.73532 (27/12)

rv(co)
krd 15/12

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