

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 30.11.2017

Pronounced on : 19.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.5466 of 2017

and

Crl.M.P.Nos.4080 & 5491 of 2017

1. Indigo Business Services (India) Pvt. Ltd.,
rep. by its Managing Director
Mr.Irwin Besant Raj,
No.18/35, Second Cross St,
R.K.Nagar, Chennai-600 028.
- 2.S.Madhavan
- 3.Irwin Besant Raj ... Petitioners

Vs.

1. D.Cyril Selladurai
2. State of Tamil Nadu
rep. by its Inspector of Police,
Law & Order,
E-4, Abiramapuram Police Station,
Mylapore, Chennai. ... Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., praying to call for the records pertaining to the FIR in Cr.No.295 of 2017 pending on the file of the second respondent police and to quash the same.

For Petitioner : Mr.V.Prakash, SC

for Mr.K.Sudalaikannu

For Respondent-1: Mr.M.Velmurugan

for Mr.K.S.Arivazhagan

For Respondent-2: Mr.C.Iyyapparaj

Additional Public Prosecutor

O R D E R

Heard Mr.V.Prakash, learned Senior counsel for the petitioner and Mr.M.Velmurugan, learned counsel for the second respondent as well as Mr.C.Iyyapparaj, learned Additional Public Prosecutor for the second respondent.

2.The prayer in the present petition is to quash the FIR in Cr.No.295 of 2017, wherein the petitioner has been arrayed as an accused of having committed offences under Sections 294(b), 342, 506(i) IPC.

3.It is a settled proposition of law that the power to quash an FIR by exercising powers under Section 482 Cr.P.C., should be done sparingly and only in exceptional cases. With this proposition in the background, the submissions made by the respective counsels is considered below.

4.The learned Senior counsel for the petitioner submitted that the present FIR needs to be quashed on the ground that the complaint amounts to an abuse of process of law since the first respondent herein had lodged three complaints on 12.05.2015, 21.10.2016 and 31.01.2017 for the same occurrence. The learned Senior counsel also submitted that the complaint is mulcted with mala-fides and therefore liable to be quashed.

5.Mr.Velmurugan, learned counsel for the first respondent on the other hand submitted that his complaint clearly makes out commission of offence under Sections 294(b), 342, 506(i) IPC and since his complaint was not acted upon by the second respondent police for a long time, he was constrained to invoke the provision of 156 Cr.P.C., for the purpose of registering the same. According to the learned counsel for the petitioner, there are no malafide in the complaint and that he had never abused the process of law.

6.Mr.C.Iyyapparaj, learned Additional Public Prosecutor submitted that since the averments in the complaint constitute the offence mentioned in the FIR and that the investigation is in progress, it would not be appropriate to quash the proceedings at this stage.

7.The ground raised by the learned Senior counsel for the petitioner that the complaint is an abuse of process of law, since the first respondent herein made three complaints on the same set of facts. On the contrary, it is seen that the petitioner had initially given a complaint on 12.05.2015 to the second respondent police and since this complaint was not acted upon by the second respondent police, he had reported the matter on 21.10.2016 to the Deputy Commissioner of Police, Mylapore about the inaction on the part of the respondent police. This

letter dated 21.10.2016 cannot be deemed to be a fresh complaint. Though he had complained about the inaction of the second respondent police to the Deputy Commissioner of Police, Mylapore, there was no further action on it. It is in this background that the petitioner had filed a petition on 31.01.2017 under Section 156(3) Cr.P.C., before the learned XXIII Metropolitan Magistrate, Saidapet seeking for registration of his complaint dated 12.05.2015 and on the basis of the order passed by the learned Magistrate, the present impugned FIR came to be registered on 25.02.2017. As such, the earlier complaints dated 12.05.2015, 21.10.2016 and 31.01.2017 cannot be said to be three distinct complaints but the latter two complaints are the follow up of the first complaint dated 12.05.2015, which came to be registered for the said offences. Hence, it cannot be said that the first respondent herein had abused the process of law.

8.The learned Senior counsel for the petitioner also submitted that after the first complaint dated 12.05.2015, the first respondent herein had made contradictory statements and had improved the averments of the original complaint, in the complaints made on 21.10.2016 and 31.07.2017. Even assuming that there were such contradictions or improvements in the original complaint, it may not strengthen the case of the petitioner to have the FIR quashed for the reason that the original complaint given on 12.05.2015 alone came to be registered. The contradictions or improvements made to the averments made in the complaints, is a matter for the Investigating Officer to consider and may not be a ground to have the proceedings quashed.

9.The learned Senior counsel also relied upon the judgment of the Hon'ble Supreme Court of India in Chandran Ratnaswami V. K.C.Palanisamy and others and batch of cases reported in 2013 (6) SCC 740, wherein it has held that the Courts are empowered with powers to quash the FIR when there is an abuse of process of law. No doubt, the High Court is vested with the powers to quash the FIR whenever there is an abuse of process of law. However, in the present case, in view of my finding that there was no abuse of process of law, it may not be necessary to consider the said judgment.

10.The learned Senior counsel by referring to the antecedents and background of the relationship between the petitioner and the defacto complainant submitted that the complainant was at the instigation of one Mr.Noel Mohan Ravin with whom the petitioner had certain grievances in the business transactions and the averments in the complaint is made at his instigation and hence motivated. What is required to be looked at this stage is as to whether the averments in the complaint

discloses a cognizable offence or not. According to the defacto complainant, he is alleged to have been locked inside a room when he had gone through the company to get back his arrears of salary and that he was forced to sign in blank papers and was also threatened. It is in these set of facts that the complaint came to be registered, since the complaint discloses the commission of a cognizable offence. The submission that the complaint was done at the instigation of the Mr.Noel Mohan Ravin is a matter for investigation. As such, even this aspect may not be sufficient ground to have the proceedings quashed.

11.In the result, I do not find any merits warranting interference with the investigation. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petitions are closed.

Today when final orders were pronounced, the learned counsel for the petitioners represented before this Court that the respondent police should not be influenced by the observations made in this petition during the course of investigation. It is made clear that all observations made herein is for the purpose of deciding the criminal original petition only and as such, the Investigating Officer shall independently proceed with the investigation without being influenced with the observations and remarks made in this petition.

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

DP

To

1. The Inspector of Police,
Law & Order,
E-4, Abiramapuram Police Station,
Mylapore, Chennai.

2. The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.K. Sudalaikannu, Advocate sr 90358.

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and

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SP(10/01/2018)