

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.07.2017

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CrI.O.P.No.15088 of 2015

Abhishek Nayak

... Petitioner

Vs

1.The State of Tamil Nadu
rep. by its Inspector of Police
F3, Nungambakkam Police Station
Chennai.

2.Kubendra Prasad

... Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records of the proceedings in Cr.No.1964 of 2014 on the file of the first respondent and to quash the same as an abuse of process.

For Petitioner : Mr.Sharath Chandran

For Respondents : Mr.C.Emalias,
Additional Public
Prosecutor (for R1)

: Mr.K.P.Ananthakrishnan
(for R2)

O R D E R

This petition has been filed to call for the records of the proceedings in Cr.No.1964 of 2014 on the file of the first respondent and to quash the same as an abuse of process.

2. It is the case of the de facto complainant that they had appointed M/s Gharpay Technology Services Private Limited [for short "M/s Gharpay"] as their agent to collect money from their customers. According to the de facto complainant, they had entrusted M/s Gharpay with their receipt books for issuing receipts to the customers who make payment and after receiving the payment M/s Gharpay was required to deposit the same in the account of the de facto complainant. While so, it is alleged that M/s Gharpay has sold the business to M/s Delhivery some time in the year July 2013 without the knowledge of the de fact complainant and it is further alleged that M/s Gharpay had issued certain receipts to some customers as if they have collected the money, but the money has not been deposited. In the FIR, the de facto complainant has

not even given one instance in which the accused had collected money from the customers and issued the receipt. Except making a general statement in the FIR, there is no other material therein.

3. Mr.Sharath Chandran, learned counsel for the petitioner brought to the knowledge of this Court the exchange of notices between the de facto complainant and M/s Gharpay, in which the de facto complainant has specifically alleged that they had handed over the receipt books to one Sriramachandran [A3] and there is absolutely no allegation as against the petitioner.

4. Per contra, Mr.Ananthakrishnan, learned counsel for the de facto complainant submitted that it was this petitioner who was incharge and responsible for M/s Gharpay and therefore, he cannot plead ignorance.

5. Be that as it may, though the transaction appears to be contractual in nature, yet, this court is of the view that it will be too pre-mature to quash the FIR at this stage. Therefore, this Court directs the Assistant Commissioner of Police, Nungambakkam to monitor the investigation in Cr.No.1964 of 2014 and the police is directed to complete the investigation within a period of three months from the date of receipt of a copy of this order and either file a closure report or Final Report, as the case may be.

Accordingly, this petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

gms

To

1.The Inspector of Police, F3, Nungambakkam Police Station, Chennai.

2.The Asst. Commissioner of Police, Nungambakkam, Chennai.

3.The Public Prosecutor, High Court, Madras.

Cr1.O.P.No.15088 of 2015

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SS(4/8/2017)

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