

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2017

CORAM:

THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

Cr1.O.P.No.14304 of 2010

and

M.P.No.1 of 2010

K.L.Jayakumar ... Petitioner

vs.

1.State of T.N.,
Rep. by Sub-Inspector of Police,
Team-IV, Central Crime Branch,
Egmore, Chennai.
(Crime No.234/2008)

2.Dhanus Technologies Ltd.,
6-B, Meha Kempala Arcade,
113/114, Thiyagaraya Road,
T.Nagar, Chennai - 17.

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to quash the final report and all further criminal proceedings against the petitioner/accused in C.C.No.2859 of 2010 on the file of the learned XI Metropolitan Magistrate, Chennai.

For Petitioner : Mr.S.Santhosh Kumar

For Respondents : Mr.B.Ramesh Babu (for R1)

Government Advocate (Cr1.Side)

No Appearance (for R2)

JUDGMENT

This criminal original petition is filed under section 482 of Cr.P.C. seeking to invoke the inherent power of this court to quash the Final Report in C.C.No.2859 of 2010 dated 09.05.2010 on the file of the learned XIth Metropolitan

Magistrate Saidapet, Chennai. The petitioner herein is the sole accused facing criminal charges under sections 420, 468, 471, r/w 465 of I.P.C. in above C.C.No.2859 of 2010.

2.The prime grounds of attack of the above final report is that laying of above charges against the petitioner are sheer abuse of process of law in view of the fact of availability of civil remedies available to the defacto complainant and that a contractual dispute is given a criminal color by the defacto complainant. Accordingly he seeks to quash the above charges.

3.I heard Mr.S.Santhosh Kumar, learned counsel for the petitioner and Mr.B.Ramesh Babu, learned Government Advocate (Criminal Side) for the 1st respondent and perused the entire materials available on records. No representation on behalf of the 2nd respondent.

4.It is seen that the above complaint is filed by one K. Vaith Subramanian claimed to be the legal in charge of one M.S.Dhanush technologies Ltd., Chennai. The said complaint is found lodged on behalf of one M/S. Dhanush technologies Ltd, Chennai as against the petitioner / accused namely Jeyakumar who is the erstwhile president of said M.S.Dhanush technologies Ltd., Chennai, a public Ltd company looking BPO operation.

5.Briefly the case of the prosecution is that the accused / petitioner having represented as general power of Attorney of brothers namely Lakshmipathi and Sivaraman, claimed to be the owners of 51.5 grounds in Thiruvanmaiur, Chennai, entered into an agreement of sale dated 07.05.2007 in respect of the said property. Believing the accused to be the authorized power agent of the Principal namely Lakshmipathi and Sivaraman, the said agreement was entered and in pursuance the petitioner has collected a sum of Rs.35,00,000/- towards advance.

6.Whereas later it was found that the petitioner / accused, who then was employed as the president of Dhanush technologies falsely represented to be the power of attorney as stated above. The said power of attorney was found to be a Bogus one and it was further shocking to see that the above properties do not belong to Lakshmipathi and Sivaraman and in actual there was no such person in real.

7.Thus sale deed in favour of Lakshmipathi and Sivaraman and as well the power of Attorney deeds altogether were found to be Bogus, for the purpose of cheating the defacto complainant. Therefore a complaint came to be lodged and F.I.R. in Crime No.234 of 2008 dated 23.04.2008 was registered as against the accused / petitioner for the above crime under sections 420, 465, 467, 468 r/w 471 I.P.C. by the respondent Central Crime Branch Police, Chennai.

8.Investigation was conducted and the allegations against the accused came to limelight and accordingly the above charges

in C.C.No.2859 of 2010 was filed under sections 420, 467, 468, 471, r/w 465 of IPC.

9.At this juncture on perusal of the final report, it is found that the investigation revealed that the properties projected as owned by Lakshmipathi and Sivaraman originally belong to the Tamil Nadu Housing Board. The subject property measuring 51.5 is comprised in S.No.78/07, 87/01, 99/8, 99/9, 103/7 of Thiruvanmaiur village belong to the Tamil Nadu Housing Board.

10.From the final report it is further seen that it is prosecution case that in actual there was no such persons by name Lakshmipathi and Sivaraman as claimed by the petitioner, more so the documents claimed by the petitioner are forged and fabricated.

11.In the said factual background, certainly the contention of the petitioner that issue on hand is a civil one and the remedy under civil law is devoid of merits and liable to be rejected.

12.It is equally important to state that the above alleged act as projected by the prosecution will not fall under contractual obligation.

13.It is needless to say that the allegations put forth would be sufficient to set the criminal law in motion. Accordingly the ground of attack over the above final report stands rejected. However any observation made above will have no effect over trial.

14.Accordingly, the criminal original petition is hereby dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Deputy Registrar

//True copy//सत्यमेव जयते

Sub Assistant Registrar

vs

To

The XIth Metropolitan Magistrate, Saidapet, Chennai.

Cr1.O.P.No.14304 of 2010 and

M.P.No.1 of 2010

GMV (01/11/2018)