

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.02.2017

CORAM

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

CRL.O.P.No.28368 of 2009
and
M.P.Nos.1 and 2 of 2009

1. M/s.WIN T.V.,
No.4, Lady Desikachari Road,
Mylapore,
Chennai-600 004.
2. Mr.Dhevanathan
Managing Director,
No.4, Lady Desikachari Road,
Mylapore,
Chennai-600 004. Petitioners/Accused

- Vs -

M/s.Raj Television Network Ltd.,
No.32, Poes Road, 2nd Street,
Teynampet,
Chennai-600 018.
Represented by its
Administrative Officer Mr.Suresh Respondent/Complainant

Prayer : Criminal Original Petition is filed under Section 482 Cr.P.C. to call for the records in C.C.No.7563 of 2003 on the file of the learned XI Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioners : Mr.G.Mohanakrishnan

For Respondent : Mr.P.K.Shrinivasan

O R D E R

Heard Mr.G.Mohanakrishnan, learned counsel appearing for the petitioner and Mr.P.K.Shrinivasan, learned counsel appearing for the respondent.

2. Perused the averments of the petition along with the enclosed materials. Having regard to the submissions made on behalf of both sides, and on considering the averments of the complaint in C.C.No.7563 of 2003, the following order is being passed.

3. It is manifested from the records that the respondent herein had filed a private complaint before the learned XI Metropolitan Magistrate, Saidapet, Chennai under Section 200 of Cr.P.C., as against the petitioners alleging that they have committed an offence punishable under Section 63 of Copy Right Act. On perusal of the available materials, this Court finds that one K.R.Balu, S/o.K.Rajagopalan Proprietor of M/s.Good Luck Movies, No.20, Swamy Complex, New Bus Stand West Road, Salem-636 004 had entered into an agreement with the complainant M/s.Raj Television Network Ltd., in respect of a feature film called Subrabadham. It appears that the said agreement seems to have been entered into between them on 15.02.1996.

4. It is also revealed that when the lease agreement was in force the lessor K.R.Balu had assigned the right in respect of the said movie in favour of the 1st petitioner. The 2nd petitioner is the Managing Director of the 1st petitioner M/s.Raj Television Network Ltd., has indicated that the petitioners being the accused in the above said case in C.C.No.7563 of 2003 had violated the provisions of Section 63 of the Copy Right Act and that the act of the petitioners/accused 1 and 2 is prejudicial to the rights of the complainant which was given to him in the above said agreement dated 15.02.1996. Now, this Court is able to find that the complainant and the witnesses were examined already and they have to be cross-examined and after the completion of their cross-examination, they have to be questioned as required under the provisions of Section 313 (1) (b) of Cr.P.C.

5. On striking a balance between the submissions made by both sides, it is apparent that K.R.Balu, who is the proprietor of Good Luck Movies is the root cause for all the problems which necessitated the respondent herein to file a private complaint before the Court below as against the petitioners. But, unfortunately, K.R.Balu is not a party to the said complaint.

6. This Court finds that unless and until K.R.Balu is impleaded as one of the accused, there may not be any better solution in this case and accordingly, this Court finds that this petition which is filed under Section 482 Cr.P.C., may be disposed of with a direction to the respondent to implead K.R.Balu, who is said to be the Proprietor of Good Luck Movies as one of the accused in the case and subsequently, the trial court, after the impleadment of the said Balu, may be directed

to dispose this case in accordance with the procedure known to law within a prescribed period which may be fixed by this Court.

7. Keeping in view of the above fact, this petition is disposed of with the following directions:

The respondent/complainant is directed to implead K.R.Balu who is the proprietor of M/s.Good Luck Movies, No.20, Swamy Complex, New Bus Stand West Road, Salem-636 004 as one of the accused in this case and after following the formalities and procedures which are known to law, the Trial Court shall dispose the main case in C.C.No.7563 of 2003 within a period of four months from the date of receipt of a copy of this order without loss of further time.

8. With this observation, this Criminal Original Petition is disposed of. The personal appearance of the petitioners/accused 1 and 2 is dispensed with for the present and they are directed to make their personal appearance before the Trial Court as and when required by the Court below. Consequently, connected miscellaneous petition in M.P.No.1 of 2009 is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssn

To

1. The XI Metropolitan Magistrate,
Saidapet,
Chennai.

+lcc to Mr.G.Mohanakrishnan, Advocate, S.R.No.10341

+lcc to Mr.P.K.Shrinivasan, Advocate, S.R.No.10448

CRL.O.P.No.28368 of 2009
and
M.P.Nos.1 and 2 of 2009

EV(CO)
CS/11/08/17