

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on :09.07.2018

Orders Pronounced on:24.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.948 of 2014

and

Crl.M.P.No.1 of 2014 and Crl.M.P.No.1 of 2015

1.C.Anil Kumar

2.K.AkhilaPetitioners/Accused 1&2

Vs.

N.K.ShanmugamRespondent/Complainant

PRAYER: Petition filed under Section 397 read with 401 of the Criminal Procedure Code, to call for the records in Crl.M.P.No.52 of 2014 in C.C.No.9151 of 2000 on the file of the learned II Metropolitan Magistrate, Egmore, Chennai - 600 008 and set aside the order dated 3.9.2014.

For Petitioner : Mr.R.Vijayaraghavan

For Respondent : Mr.C.Rajan

O R D E R

The petitioners are the accused herein.

2. This revision has been filed under 397 read with 401 of the Criminal Procedure Code, to call for the records in Crl.M.P.No.52 of 2014 in C.C.No.9151 of 2000 on the file of the learned II Metropolitan Magistrate, Egmore, Chennai - 600 008 and set aside the order dated 3.9.2014.

3. The learned counsel for the petitioner/accused 1&2 would submit that the complainant has no locus standi to file the present private complaint since his wife G.Rani alone is the subscriber and a member in the chit value of Rs.1 lakh and that complainant has not filed any power of attorney or authorization to represent on her behalf. No documents have been filed or produced to substantiate the case of the complainant and the original documents had not been filed before this Court and that a complainant has been lodged by Gokulam Chit Fund and the 1st

petitioner is being tried for the offence under Section 406, 420, 469, 471 I.P.C before the Chief Metropolitan Magistrate's Court, Egmore in respect of the same transaction and hence contended that it amounts to double jeopardy and accused cannot be vexed twice.

4. The learned counsel for the respondent/complainant would submit that his wife being a member in the one lakh chit group in Gokulam Chit Fund and that had paid 6 monthly installments of Rs.4000/- each and subsequently due to financial problem had discontinued the chit and had duly informed the 1st accused who was the then Manager of Gokulam Chit Funds and that suddenly after 6 or 7 months a person working in the Kellys branch of Gokulam Chit Fund visited the complainant and informed that chit amount has been auctioned and taken and the balance chit installment had to be paid by the complainant. Wherein the respondent/complainant being shocked and on enquiry had found that 1st accused had impersonated his wife as G.Rani and had taken the chit amount and received the cheque of Rs.75,000/- and had further encashed the said amount in Purasawalkam Catholic Syrian Bank by forging the signature of complainant's wife G.Rani and necessary documents have been placed before the Court and hence, made submission in support of the order passed by the II nd Metropolitan Magistrate on 03.09.2014.

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5. Heard both sides and perused the records.

6. From the records, it is seen that the complainant-wife was a Member in one lakh chit group in Gokulam Chit Fund and he has paid 6 months installments of Rs.4,000/- each. Subsequently, due to the financial problem, she discontinued the chit. However, after few months, the Manager of Gokulam Chit Fund informed that chit amount has been auctioned and also cheque has been issued and he has not paid the monthly installments and thereafter, the accused-A1 who is the Manager at the relevant point of time have entered into a criminal comparacy with A2 appears to have taken bid for Rs.75,000/- and impersonated his wife G.Rani and took the prized-chit amount and also encashed the same. When this came to light, the complainant has filed the complaint before the Magistrate and the same was taken on file. In support of his allegation, he has produced documents Exhibits P1 to P8 and also examined the present Manager of Gokulam Chit Fund as P.W.2 and Bill Collector as P.W.3.

7. After going through the statement of these witnesses and documents, I am of the considered view that there is a prima facie case against the petitioner herein and hence, in view of the sufficient material available on record to proceed against the petitioner, I find that the order of dismissal of the discharge petition by the trial Court does not call for any interference as the same does not suffer from any illegality or

irregularity and the order passed by the trial Court is hereby confirmed.

8. Accordingly, this Criminal Revision Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1 The II Metropolitan Magistrate, Egmore,
Chennai - 600 008

2 The Chief Metropolitan Magistrate,
Egmore, Chennai(for information)

Copy to:

The Section Officer,
Criminal Section,
High Court,
Madras

+2 cc to MR.C.RAJAN, Advocate SR.NO.49262

Crl.R.C.No.948 of 2014 and
Crl.M.P.No.1 of 2014 and Crl.M.P.No.1 of 2015

AK(CO)
SMI/09.08.2018

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