IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.08.2018
DELIVERED ON: 29.08.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE R. HEMALATHA

Crl.O.P.No.2410 of 2015
and
M.P.Nos.1 of 2015 and 9485 of 2018

B.Gajendran .. Petitioner

Vs.

T.Arunachalam ...Respondent

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C to call for the records in C.C.No.4492 of 2013 on the file of the II Metropolitan Magistrate, Egmore, Chennai and quash the same.

For Petitioner : Mr.S.P.Sudalaiyandi
For Respondent : Mr.R.Varadaraj

ORDER

The respondent filed a private complaint under Section 200 of the Code of Criminal Procedure in C.C.No.4492 of 2013 before the II Metropolitan Magistrate, Egmore, Chennai against the present petition as well as 3 others for the alleged offences punishable under Sections 379, 405, 406, 420, 463, 465, 467, 468 read with Section 34 of the Indian Penal Code.

2. The complainant T.Arunachalam, who is the respondent in this petition was having a company by name Sri Sai Arunachalam Foundations Private Limited, in which, the present petitioner was a founder-director along with the respondent/complainant. It is contended that both the petitioner and the respondent had 25,000 equity shares each and were into the business of real estate. It is alleged by the complainant that the petitioner, who is the first accused along with the complainant's wife, the 2nd accused and two others forced him to relinquish his position as a director and usurped the company as a whole by illegally transferring the shares in his name to one Prema, the 4th accused, who is the mother of the first accused/petitioner. It is also alleged that the locker

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facility, which was in joint names of the complainant and his wife Srividhya (2nd accused) was operated without the knowledge of the complainant and all the shares and jewellery including those belonging to his mother were stealthily removed from the locker and subsequently, these shares were transferred to one Prema, the mother of the petitioner/first accused. It is also the allegation of the complainant that the petitioner's wife one Adhilakshmi had given complaints about the conduct of her husband, the petitioner and even gone to the extent of filing the divorce petition in the family court. According to him, the entire sequence of events has only led to his being driven out of the business venture as well as his matrimonial relationship and was left high and dry. Consequently, the complaint under Section 200 of the Code of Criminal Procedure was filed under Section 379, 405, 406, 420, 463, 465, 467, 468 read with Section 34 of the Indian Penal Code.

3. The petitioner has approached this court stating that all the contents of the complaint made by the complainant are false. It is also contended by him that he was in no way involved in the alleged operations of the locker held jointly by the respondent and his wife. His further contention is that the essential ingredients of any of the offences alleged against him are not made out and the present complaint against him need to be quashed for the same reason.

4. On a perusal of all the related documents and papers produced before this court, it is evident that the complainant/respondent has lost both his business as well as his matrimonial life. Many of his allegations centred around the breach of trust allegedly committed by his wife in the marriage as well as facilitating his business partner to breach the trust reposed on him by the respondent. There are allegations about the petitioner eloping with the complainant's wife and the respondent's wife alleging adultery and illicit relationship against her husband, the petitioner herein. Moreover, it is also clear that 25,000 equity shares which were in the name of the respondent are now in the name of the petitioner's mother, which cannot be dismissed of as a coincidence. The operation of the locker by the wife of the respondent and the alleged removal of the contents in the locker are all subject matter to be decided only in the trial. Accordingly, the allegation of forgery against the petitioner, especially when the shares held by the respondent have been transferred to the petitioner's mother's name is also a serious one and need to undergo the process of trial. This court cannot conduct any roving enquiry to find out the truth or otherwise of the allegations made by the complainant. Nevertheless there is a prima facie case made out against the petitioner which cannot be brushed aside.

5. Reliance was also placed by the learned counsel for the petitioner on the decisions in Vineet Kumar and others V. State of U.P. and others reported in 2017(3) CTC 751 and in

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Superintendent and Remembrancer of Legal Affairs, West Bengal, V. Mohan Singh and others reported in AIR 1975 Supreme Court 1002. But, the said rulings would not apply to the facts of the present case as I have already held that there are primafacie materials available on record to proceed further against the petitioner. In such circumstances, the petition is liable to be dismissed.

6. In the result, the criminal original petition is dismissed. However, the II Metropolitan Magistrate, Egmore, Chennai is directed to proceed further case in C.C.No.449 of 2013, uninfluenced by any of the observations made by the court in the instant petition. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

mst

To

1. The II Metropolitan Magistrate,
   Egmore, Chennai.

+1cc to Mr.R.Vardharaj, Advocate, S.R.No. 59110
+1cc to Mr.S.P.Sudalaiyandi, Advocate, S.R.No. 60314

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GN(10/09/2018)

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