IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.06.2018
DELIVERED ON: 10.07.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE R. HEMALATHA

Crl.O.P.No.7690 of 2013
and
Crl.M.P.Nos.1 of 2013

1. Srinivasa Naidu
2. S.K.Agasti ... Petitioners/Accused 1 & 2

Vs.

1. State represented by
The Inspector of Police,
E.O.W.(II), HQ,
Anna Nagar, Chennai-40 ... Respondent/Investigating Officer

2. G.Devakumar ... Respondent/De-facto complainant

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C to call for the records in F.I.R.No.06 of 2012 dated 14.06.2012 pending on the file of the Inspector of Police, EOW II (HQ), Anna Nagar, Chennai 600 040 and quash the same.

For Petitioners : Mr.P.R.Raman,

For 1st Respondent : Mr.T.Shunmugarajeswaran, Government Advocate (Crl.Side)

For 2nd Respondent : Mr.C.V.Kumar

ORDER

The present petition has been filed to quash the proceedings in First Information Report registered in Crime No. 06 of 2012 dated 14.06.2012 on the file of the Inspector of Police, EOW II (HQ), Anna Nagar, Chennai-2.

2. The 2nd respondent/ de-facto complainant lodged a complaint dated 10.04.2012 with the Inspector of Police, EOW (II), Head Quarters, Chennai contending that during August 2009, he met one Mr.Agasti, Deputy General Manager of Suzlon Energy Limited and one Mr.Srinivasa Naidu, in connection with purchase of shares of Suzlon Energy Limited. According to the de-facto complainant, the above mentioned persons introduced him to one Mr.Rajan and as per the instructions of the said Mr.Rajan, he transferred Rs.1,20,00,000/- to the account of Mr.Rajan. However, no shares were allotted to him and that the accused 1.

Agusti, 2.Srinivasa Naidu, 3. Rajan cheated him. The Inspector of Police, EOW (II), Chennai registered the First Information Report in Crime No.6/2012 against the aforesaid persons for the alleged offences punishable under Sections 420 and 120 B of the Indian Penal Code.

3. In the present petition, the petitioners (A1 and A2) have contended that they are working for Suzlon Energy Ltd, a Public Limited company, which is engaged in the business of manufacture and installation of Wind Turbine Generators of various capacities and is one among the world's leading wind turbine suppliers, with an annual turnover of around Rs.10,000/- crores. According to them, one Mr.Rajan. Expedite and Mr.A.Pichaikani of AVT Coconut Processing Industries Limited placed orders for purchase of 10 wind turbine generators with the Suzlon Energy Limited and also handed over 4 cheques for Rs.27,38,89,560, drawn on Central Bank of India, Nagarcoil branch. A Memorandum of Understanding dated 01.08.2009 was also executed and that is all the petitioners are aware of about the AVT Coconut Processing Industries Limited Company and about Mr.S.Rajan Expedite and Mr.A.Pichaikani. According to them, the very basis of the First Information Report is absurd and completely unbelievable. It is also their contention that they do not have any role in allotment of shares of the company and that primary issuance of the shares of the company took place in the year 2005 by means of an Initial Public Offering (IPO). Their specific contention is that even according to the de-facto complainant, they have not received a single penny from him (de-facto complainant) and therefore the de-facto complainant can only proceed against the said Rajan in whose account he had allegedly transferred a sum of Rs.1,20,00,000/- and the First Information Report in Crime No.06/w2012 is liable to be quashed as regards the petitioners.

4. Normally, when a person buys shares of a company, he/she also gets certain rights such as the right of earning dividend and also part ownership of the company. In order to buy shares, the first step is to open a trading account or Demat (dematerialized) account. These accounts are limited to the account holder's bank savings accounts to ensure smooth transfer of funds. Demat and Trading Accounts are provided by the two depositories, NSDL and CDSL through brokerage firms. Brokers are to be chosen wisely and with utmost care and a stock broker should obtain a proper license and they are paid primarily through commissions. Every stockholder has to be registered with the Securities and Exchange Board of India, which is the stock market regulator. Sub brokers working under a registered broker must be licenced to work under him. The petitioners' contention is that their company, in which they are employed, issued shares only in the year 2005 by means of an Initial Public Offering (IPO) and that the petitioners have no role to play in the allotment of shares of the company and the only manner in which the 2nd respondent could have purchased the shares of the company is through any of the recognised stock exchanges in which the companies shares are traded.

5. Ofcourse, many companies allowed to buy or sell shares directly through direct stock plan (DSP) without having to pay commission to a broker. But a fee has to be paid for using the plan's services and one must find when the company would buy and sell share and how it determines the price by reading the company's disclosure documents.

6. In the instant case, the de-facto complainant without knowing or trying to ascertain the basic things about trading in shares, contend that the petitioners herein introduced one Mr.Rajan for purchase of shares of Suzlon Energy Limited company, in which the petitioners are allegedly working and that he transferred his money to the tune of Rs.1,20,00,000/- to the account of the said Rajan. It is not also the case of the de-facto complainant that the petitioners received any amount either from him or from the said Rajan. Further more, the complaint is lodged only in the year 2012 for the alleged transactions that took place during August 1999. Therefore, there is an inordinate delay in lodging the complaint. In the facts and circumstances of the present case, I do not find any reason to direct the Inspector of Police, EOW-II, Head Quarters, Anna Nagar, Chennai to proceed further in Crime No.06 of 2012, as against the preset petitioners herein and hence the same is liable to be quashed as regards the petitioners alone.

7. In the result, the Inspector of Police, E.O.W (II) Head Quarters, Anna Nagar, Chennai is directed not to proceed further in the First Information Report registered in Crime No.6 of 2012 as regards the petitioners (Accused 1 & 2) alone and he is directed to investigate the case in Crime No 6 of 2012, as regards the 3rd accused.

8. With the above observations, the Criminal Original Petition is disposed of. Consequently, connected criminal miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
   EOW (II), Head Quarters,
   Anna Nagar, Chennai.

2. The Public Prosecutor,
   Madras High Court, Madras.

+1cc to Mr.C.Seethapathy, Advocate SR.No.45051

KK(CO)
sm:17.7.2018