HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

CRIMINAL PETITION No.8824 of 2018

ORDER:

The petitioner is A.1 out of two accused in crime No.170/2016 on the file of the Central Crime Station, DD Hyderabad, registered for the offences U/s 406 and 420 R/w 34 IPC.

The averments in the report of the de-facto complainant are that he joined as a Regional Manager in Needs Today Online Solutions on 02.07.2015 and this was referred by Ex-boss K. Sreedhar and interview taken by National head Mr.Kumaran and respective Directors Suresh Mankkam-the petitioner herein and David Bezzam(A.2) and as per their instructions, he recruited 4 Area Managers and 20 members of respective team as Partner Development Managers by names (1) Sasikala Kathara, Chary, 2) Shankaraiah and 3) Arun. The core duties are identifying the investors to join them as Associate partners and their investment is Rs.1,14,000/- pincode wise and they fulfilled their job successfully. For what company provided agreement to all investors and as per the agreement business has to be started within 45 days time from the agreement date but from last 11 months not started so far. All the investors established their offices, infra, office boys and maintained delivery boys and the Company paid the salaries for the defacto-complainant and for his team only for 5 months and thereafter not paid anything and postponing the salaries and activities to perform the business in Hyderabad even after several reminders and requested, they started threatening them in different ways. As the complainant happened to be the Regional Manager, all the investors are severely pressuring for refund of their investment, for which there is no proper response from the accused and who are not even choose to come to Hyderabad to meet the investors or to appraise, hence the present complaint.

The contentions of the learned counsel for the petitioner are that the petitioner-A.1 is apprehending arrest on the basis of complaint containing above referred false and concocted averments. As the online grocery business running successfully in Chennai from the year 2015, so he planned to extend his business to Hyderabad area and made a infrastructure for his office and spent Rs.15 lakhs to start business in Hyderabad in the month of September 2015. The nature of the business is selling grocery both online & offline, for which each and every Pin code (area) the franchisee marked as associate partner in the company will be joined by paying of Rs.1,14,000/- for each pin code and break up cost for Rs.1,14,000/- is Rs14,00,000/- payable of service tax, Rs,50,000/- for smart cards for the customer each of Rs.1000/- and 50 smart cards had been given or delivered to the franchisee marked as an associate partner for discount on the purchase of goods, for Rs.30,000/- promotional materials for marketing purposes, which contains T-shirt, Swiping machine, Kiosk, Large size umbrellas, Posters, Pamplet and flyers and Rs.20,000/- as non-refundable. The nature of work for franchisee marked as associate partner is to grab customers in the allotted pin code (area) and also to receive the demands of the customer then deliver the ordered goods to the customer for which they get 4% of total sale in the pin code (area) of every month, which is the income of the franchisee marked as associate partner, the same was agreed and signed and the franchisee marked as associate partner in a M.O.U. agreement & service agreement. The petitioner-A3 further appointed 28 employees in his company including de-facto complainant and the nature of work is to develop the business through franchisee by way of recruiting the franchisee, to serve the demands or needs of the franchisee, to deliver the goods ordered every pincode (area) and make the franchisee profitable and the salary for the employee was fixed of Rs.18,000/- to Rs.70,000/-.

It is contended that on the grounds of misconduct the de-facto complainant and Neelam Sashikala was warned by the petitioner and they both resigned for their act on 19-09-2016. In the vengeance defacto complainant and Neelam Sashikala had spread false story to the franchisees about the company and for the same he had lodged a complaint before the Banjara Hills Police Station on 22-06-2016 in F.I.R.No.759 of 2016 dated on 05/09/2016 against the defacto complainant and Neelam Sashikala, the same is pending till date. It is further contended that the defacto complainant with the local influence lodged a false complaint against the petitioner and made franchisee to believe that the running company is going to shut down and made franchisee as witness in this case and the de-facto complainant received salary till the date of resignation and further more the franchisee marked as associate partner in the company does business till the date of F.I.R. and earned 4% profit out of it and it is purely a civil dispute between the petitioner and de-facto complainant.

It is further contended that he is innocent and does not hold any previous history of cases against him and a law abiding citizen and thereby entitled to the concession of anticipatory bail and ready to offer solvency and abide by the conditions imposed by the Court and to cooperate with the investigation.

Learned Public Prosecutor opposed the anticipatory bail application and it is a large scale fraud and cheating i.e., by misappropriation of amounts collected under the guise of the franchisee and otherwise and defacto complainant is one of the such victims in the hands of petitioner-A.1 and the investigation so far done reveals the same and the petitioner is not entitled to the concession of anticipatory bail and thereby it was rightly dismissed by this Court earlier in

Crl.P.No.1384 of 2017 dated 08.03.2017 and Crl.P.No.9533 of 2017 dated 30.10.2017 and sought for dismissal.

Heard learned counsel for the petitioner-A.1 and learned Public Prosecutor representing the State and perused the FIR, bail application averments and the material on record and the remand report of A.2 among 2 accused for A.1 who is the present petitioner to the anticipatory bail is shown in abscondence and even A.2 apprehended and arrested and A.1's address is also as per the FIR at Chennai whereas he is shown in the bail application as at street No.3, Nagender Colony, Habsiguda, Hyderabad.

The remand report dated 29.01.2017 of A.2 speaks by then 15 witnesses examined of which LWs.1 to 9 including the defacto complainant are the victims in the hands of A.1 and A.2 and that under the breach of trust and cheating committed by A.1 and A.2 collected huge amounts through the employees for the development of Needs Today Online Solutions (grocery business) and even the IO through head constable Praveen Kumar chosen to serve the notice to the Hyderabad address it could not be done as he is residing at Chennai and not in the office address of him at Hyderabad and A.1 and A.2 are the directors of the said entity viz., online solutions supra and LW.1-defacto complainant joined as regional manager of the Hyderabad Branch with office at road No.13 at Banjara Hills with 4 area managers and 20 development managers who could join 32 members as associate partners and 2 franchisee partners believing the accused and all became the victims. The statements of said victims also speak in same line. The investigation discloses the accused collected nearly Rs.1 crore and failed to provide the franchisee. No doubt A.2 was later granted regular bail.

A perusal of the case diary further shows the petitioner representing the entity filed report dated 20.06.2016 to the SO, Banjara Hills PS, stating that the entity is selling grocery and other products through online doing business in the States of Tamilnadu, Telangana and Karnataka and branch office at Banjara Hills Hyderabad and recruited Murali Mohan, Praneeth, Kashinath, Sandeep and Vivek among others in the State of Telangana in the procurement department, business development and the persons having complete knowledge about the secrets of the company suddenly stopped to come to the company and do the business and not responding and they revealed the confidential information to other rival business competitors and by getting wrongful gain and causing wrongful loss to the Needs Today Online Solutions and said Murali Mohan also misappropriated the funds transferred to his account by the company. It is therefrom crime No.759 of 2016 under Sections 420 & 406 r/w 34 IPC was registered on 05.09.2016. The entity represented by A.1-Suresh filed WP.No.29322 of 2016 for not registering crime against Praneeth Kumar, Kashinath, Sandeep and Vivek etc., to direct the SHO, Banjara Hills PS, to register the crime. It is referred supra crime was registered and the direction in the writ petition was from the say of the crime registered on 05.09.2016 to complete the investigation and to file final report expeditiously. For the notice issued to Needs Today Online Solutions by the Banjara Hills on 23.12.2016 in which crime No.759 of 2016 asked to appear with documents related to the case, but did not choose to appear other than addressing letter saying dated 18.02.2017 saying due to political issues in Tamilnadu unable to appear before the IO. Again on 14.02.2017 another notice issued which was also not responded. Later it appears said Suresh Manickam appeared before the Banjara Hills Police Station in respect of that crime No.759 of 2016 on 15.09.2017 and after collecting documents the crime shows it appears registered in filing counter in the writ petition and its disposal with reference to it referred above supra and ultimately police filed referred report in said crime No.759 of 2016.

Now coming to crime No.170 of 2016 once from the statements of the investigation covered by the victims LWs.1 to 9 shows prima facie accusation in saying embezzlement under the guise of online business collected, this Court earlier leave about the Sessions Court also twice dismissed the anticipatory bail, it is not a case to grant anticipatory bail but for remedy is to surrender and move for regular bail if at all to decide on merits.

Having regard to the above and in the result, this Criminal Petition is dismissed.

Miscellaneous petitions, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 05.10.2018
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