

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRL.O.P.NO.18243 OF 2013

AND

M.P.NO.1 OF 2013

1. Kotak Mahindra Bank
Represented by its
Executive Vice President V.Bhaskaran
36-38A Nariman Bhavan,
227, Nariman Bhavan,
Mumbai 400 021.

2. V.Bhaskaran Petitioners

Vs.

R.Subramanian Respondent/Complainant

PRAYER:

Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records connected with C.C.No.2559 of 2013 on the file of the learned XIV Metropolitan Magistrate, Egmore, Chennai, and quash the same.

For Petitioners : Mr.C.Suraj for M/s.Iyer & Thomas

For Respondent : Mr.R.Subramanian -
Party-in-Person

ORDER

The respondent filed private complaint under Section 200 of Cr.P.C. against the petitioners herein for the offence punishable under Sections 500 and 501 of IPC. The learned XIV Metropolitan Magistrate taken cognizance on the same in C.C.No.2559 of 2013 issued summons on the petitioners. Now, the petitioners seek to quash the proceedings in the above calendar case invoking Section 482 of Cr.P.C.

2 According to learned counsel appearing for the petitioners, for the very same averments made in O.A.No.191 of 2010 before the Debt Recovery Tribunal (in short "DRT"),

Chennai, the respondent has filed case in C.C.No.2991 of 2012 on the file of the learned XVIII Metropolitan Magistrate, Egmore, Chennai. This Court, in a batch of criminal original petitions including Crl.O.P.Nos.26906 & 26910 of 2012, filed by the petitioners herein, has quashed the complaints filed by the respondent against various financial institutions including these petitioners. The present case in C.C.No.2559 of 2013 has been filed against the averments made in the proof affidavit filed in the very same O.A.No.191 of 2010 before DRT. While passing the order dated 31.07.2018, in a batch of criminal original petitions, quashing the complaints filed by the respondent, this Court has carefully considered by the submissions made by the respondent and also the decisions referred to by the learned counsel for the respondent. Therefore, the present case in C.C.No.2559 of 2013 is liable to be quashed and this petition has to be allowed.

3 Mr.R.Subramanian, who appeared party-in-person has argued that the petitioners herein made allegations in the proof affidavit filed in O.A.191 of 2010 before the DRT, which would amount to defamatory and they have no authority to make such defamatory statement. He would further contend that once allegations levelled, the same has to be tested during trial and what ever the defence, they can very well establish during trial. To support his contentions, he relied on the decisions rendered by the Hon'ble Supreme Court reported in 2010 6 SCC 243 (Jeffereyj.Diermeier and another vs. State of West Bengal), 2009 1 SCC 101 (Arumugam vs. Kithias Krishnamoorthy), AIR 1971 SC 1389 (Balakrishnan vs. Moti Ram).

4 Heard the learned counsel appearing for the petitioner and the respondent and perused the materials available on record.

5 Admittedly the petitioners filed application before the DRT, Chennai, seeking recovery of money, in which they have made certain averments. According to respondent/complainant, the said averments were intended only to defame the respondent. It is seen that this Court in a batch of criminal original petitions has quashed the complaints filed by the respondent against the petitioners and others by a detailed order dated 31.07.2018, wherein, the learned Judge has elaborately discussed about the facts of the case and all the defence taken by the respondent/complainant and finally allowed all the petitions. Further the DRT allowed the application filed by the petitioners and issued Debt Recovery Certificate, which was challenged by the respondent before the Debt Recovery Appellate Tribunal and the same is pending. It is to be noted that the order dated 31.07.2018 passed by this Court in a batch of petitions has not been challenged. Therefore, in view of the fact that the present

complaint sought to be quashed by the petitioners is arising out of very same averments made in the proof affidavit filed in the application before DRT, this Court is inclined to quash the present complaint also, since this Court has already passed the detailed order quashing the complaints filed by the respondent herein.

6 In view of the above, this criminal original petition is allowed and the case in C.C.No.2559 of 2013 before the learned XIV Metropolitan Magistrate, Egmore, Chennai, is hereby quashed. Consequently Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The XIV Metropolitan Magistrate,
Egmore, Chennai.
2. The XVIII Metropolitan Magistrate,
Egmore, Chennai.

+1cc to M/s.H.Karthik Seshadri, Advocate, S.R.No.

Crl.O.P.No.18243 of 2013 and
M.P.No.1 of 2013

BS (CO)
CS/19/02/2020

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