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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2019

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.Nos.18407 of 2013 & 1479 of 2014
and
Crl.M.P.Nos.1 & 2 of 2013 and 2 of 2014

1.Ashwin

2.Ashok Petitioners/Accused3&4 in
Crl.O.P.No.18407 of 2013

1.Sony Music Entertainment
India Pvt., Ltd.,
Rep., by its Director,
Mr.Sumit Chatterjee,
No.12, Vaibhav Building Basement,
Smith Road, Off. Mount Road,
Chennai.

2.Mr.Sumit Chatterjee
..... Petitioners in Crl.O.P.No.1479 of 2014

vs

M/s.R.K.Productions Pvt. Ltd.,
Rep., by its Authorised Signatory,
Mr.Manikantan
Having its Office at No.16/5,
Rajamannar Street,
T.Nagar, Chennai 17

..... Respondent in both cases./Complainant

Prayer in both the cases: Criminal Original Petitions filed under Section 482 of Code of Criminal Procedure, to call for the records in C.C.No.2818 of 2013 on the file of the learned XIV Metropolitan Magistrate, Egmore, Chennai, and quash the said complaint.

For Petitioner : Mr.Sunder Mohan
(in Crl.O.P.No.18407 of 2013)
: Mr.Anand Sashidharan
(in Crl.O.P.No.1479 of 2014)

For Respondent :Mr.S.Haja Mohideen Gisthi
(in both cases)



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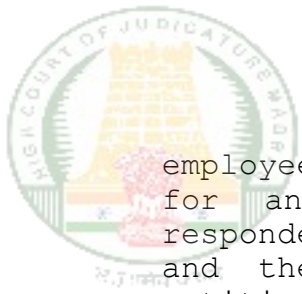
COMMON ORDER

These Criminal Original Petitions have been filed to call for the records in C.C.No.2818 of 2013, on the file of the learned XIV Metropolitan Magistrate, Egmore, Chennai, and quash the same.

2 The petitioners in Crl.O.P.No.1479 of 2014 are the first and second accused and the petitioners in Crl.O.P.No.18407 of 2013 are arrayed as third and fourth accused.

3 The respondent herein filed a private complaint before the learned XIV Metropolitan Magistrate, Egmore, Chennai, against these petitioners for the offence under Section 63 of the Copyright Act, 1957 r/w 120-B and 34 IPC. The learned XIV Metropolitan Magistrate, Egmore, Chennai, has taken cognizance of the complaint in C.C.No.2818 of 2013 and issued summons to the petitioners. Aggrieved by the cognizance and issuance of proceedings, the petitioners/accused have approached this Court seeking to quash the same by invoking Section 482 Cr.P.C.

4 The learned counsel for the petitioners would submit that there is an assignment agreement between the parties and as per the terms of the copyright agreement, there is no infringement, even Section 14 of the Copyright Act 1957, has clearly defined what is infringement. The petitioners have not infringed any rights assigned to these petitioners. In the assignment of copyrights agreement, they were given all the rights including translation from Tamil to other languages. Once entire rights assigned to these petitioners, it is for the petitioners to decide their works. Even otherwise, they can approach the appropriate authority under Section 19(A) of the Copyrights Act. The petitioners have not committed any offence under Section 63 of Copyrights Act. Even the complainant can approach Civil Court by filing suit for infringement. Once, the dispute is civil in nature, the Magistrate has no power to take cognizance of the complaint. In support of his contention, the learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court in the case of Damodar Das Jain Vs. Krishna Charan Chakraborti and another reported in (1989) 4 SCC 531. Further, A3 and A4 are the directors of the company and they are not vicariously liable, because, they are only the



employees of the company. They are not liable to be prosecuted for any offence or any infringement as alleged by the respondent. The petitioners need not face the ordeal of trial and there is no prima facie case made out against these petitioners. The learned Magistrate ought not to have taken cognizance of the complaint against the petitioners, which warrants interference by this Court.

5 The learned counsel appearing for the respondent would submit that, as per the averments in the terms sheet, the rights have been assigned only to translate from Tamil to Telugu alone and not to Hindi or any other languages. The assignment deed does not speak about the right to translate in Hindi or any other languages. As per the assignment term sheet, right has been given only for two languages and not more than that. The petitioners failed to obey the conditions and infringed the rights assigned to them. Hence, all the petitioners are liable for the offence under Section 63 of Copyrights Act.

6 Heard the learned counsel for the petitioners and the learned counsel appearing for the respondent and perused the materials available on record.

7 The respondent assigned copyright to the first petitioner's company. The second petitioner is working as a Director, the 3rd and 4th petitioners are working in the company. It is averred in the complaint that the petitioners have infringed the rights assigned in the assignment deed. All is the company and other accused are participating in the day to day affairs of the first petitioner's company and hence, they are also liable for the infringement. Therefore, they must be prosecuted for the complaint filed by the respondent before the learned XIV Metropolitan Magistrate in C.C.No.2818 of 2013. Further there are allegations in the complaint against these petitioners. Therefore, this Court is not inclined to invoke powers under Section 482 Cr.P.C., when, there are specific allegations levelled against all the petitioners herein. This Court does not find any merits in these petitions.

8 Accordingly, the Criminal Original Petitions are dismissed. Consequently, connected Criminal Miscellaneous Petitions are closed. However, the petitioners are at liberty to take all their defence before the trial Court. However, the personal appearance of the petitioners 2 to 4 are dispensed with and the petitioners 2 to 4 herein are directed to appear before the trial Court as and when required.



9 Since, these matters are pending from the year 2013, the learned XIV Metropolitan Magistrate, Egmore, Chennai, is directed to dispose of the case in C.C.No.2818 of 2013, within a period of three months, from the date of receipt of a copy of this order. Both the parties are directed to co-operate for the speedy disposal of the case. If the petitioners are not co-operating to dispose of the case within the stipulated time, the order of dispense with the personal appearance shall stand automatically cancelled and the learned XIV Metropolitan Magistrate is directed to proceed with the matter in accordance with law.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

sbn
To

The learned XIV Metropolitan Magistrate,
Egmore, Chennai.

+lcc to Mr.Sunder Mohan , Advocate SR.No. 105466
+lcc to Mr.S.Haja Mohideen Gisthi, Advocate SR.No. 105545
+lcc to Mr.Anand Sashidharan , Advocate SR.No. 105642

Crl.O.P.Nos.18407 of 2013 & 1479 of 2014
and

Crl.M.P.No.1 & 2 of 2013 and 2 of 2014

A.SK(20/12/2019)