

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.18899 of 2014

and

M.P.No. 1 of 2014

1. Mr.Rajesh Sharma
2. Mr.Shyam Bhatt
3. Mr.A. Ravi Kumar ... Petitioners

..Vs..

1. The Inspector of Police (crimes)
E-3, Teynampet Police Station,
Teynampet, Chennai 600 006.
2. M/s.Golden India Mines and Infrastructure Limited,
No.2H, Second Floor,
Prince Arcade, Cathedral Road,
Chennai - 600 086. ... Respondents

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the entire records pertaining to proceedings of the FIR in Crime No.1258 of 2014 pending on the files of the first respondent herein against the petitioners, registered at the instance of the de-facto complainant and quash the same.

For Petitioners : Mr.R.Umasuthan

For Respondents : Mr.M.Mohamed Riyaz

Additional Public Prosecutor for R1

: No appearance for R2

O R D E R

This Criminal Original Petition has been filed to quash the FIR in Crime No.1258 of 2014, pending on the file of the first respondent herein against the petitioners, registered at the instance of the de-facto complainant / second respondent herein for the alleged offence under Sections 420, 464, 465, 467 and 470 of IPC.

2. It is the case of the petitioners that the impugned FIR in question relates to the subsisting civil dispute between M/s.Earthstone Natural Resources Private Limited and the second respondent herein arising out of the Memorandum of Understanding dated 13.12.2012, entered into between them at Mumbai.

3. The learned counsel for the petitioners submitted that, there is a civil dispute pending between the M/s.Earthstone Natural Resources Private Limited and the second respondent herein on the files of the High Court of Judicature at Bombay under Arbitration Petition (L) No.437 of 2014. In the said proceedings, the respondent therein has taken the position that the MOU dated 13.12.2012, was never executed by them and that it is a forged and fabricated document. The stand of the Arbitrator in that regard are as follows:

"15. The respondent's contention that the MOU dated 13.02.2012 is a forged, fabricated and got up document raises at the very outset the question as to which Agreement between the parties would govern the resolution of the issues raised in the present Application. Having considered the material on record, atleast on a prima facie view, I am not persuaded by the respondent's contention that the MOU dated 13th December 2012 was fabricated and got up. I find it difficult to reconcile the respondent's position in this regard with the confirmation by them of the MOU dated 13.12.2012 in various documents to which they are party. These includes:-

a) The Exclusive Supply Agreement dated 3rd August 2013;

b) The Respondent's letter dated 8th March 2014; and

c) The plaint filed on behalf of the Respondent in its Suit against SSEPL before the Hon'ble District Munsif's Court at Sri Vaikuntam.

I hasten to add that the observations made by me in this regard are tentative and may suffer revision on the parties leading evidence in the matter. However, for the purposes of the present Application, I intend to proceed on the basis that the Second MOU dated 13th December 2012 was, in fact, executed by the parties. The Respondent has, in any event, addressed arguments on this alternative basis as well."

4. It is also seen that the second respondent undertook to hand over the equipments listed before the Arbitrator. Thereafter, all of them were handed over to the petitioners and

the complaint lodged by the second respondent before the Inspector of Police, is also hereby withdrawn. Therefore, there is a settlement between the petitioners and the second respondent.

5. Considering the above facts and circumstances, the pendency of the FIR would not serve any purpose to meet ends of Justice, this Court is inclined to allow this petition.

6. Accordingly, this Criminal Original Petition is allowed and the FIR in Crime No.1258 of 2014 is quashed. Consequently, the connected Miscellaneous Petition is closed.

Vji

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Inspector of Police (crimes)
E-3, Teynampet Police Station,
Teynampet, Chennai 600 006.
2. M/s.Golden India Mines and Infrastructure Limited,
No.2H, Second Floor,
Prince Arcade, Cathedral Road,
Chennai - 600 086.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Umasuthan, Advocate, SR.No.30062

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Kak(14/05/2019)