



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 22.10.2019
CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD)No.10592 of 2019
and
Crl.M.P.(MD)No.6600 of 2019

1.Parameswaran
2.Srivatsan
3.Aravindh

... Petitioners

Vs.

1.State represented by
The Inspector of Police,
City Crime Branch,
Trichy District.

2.Shanmugapriya

... Respondents

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the records pertaining to the FIR in Crime No.36 of 2019, on the file of the 1st respondent police and quash the same insofar as the petitioner is concerned.

For Petitioners	: Mr.T.Lenin Kumar
For R1	: Mr.K.Suyambulinga Bharathi Government Advocate (Crl.Side)
For R2	: Mr.T.Senthilkumar

ORDER

This petition has been filed to quash the FIR in Crime No.36 of 2019, on the file of the 1st respondent police for the offence under Sections 406 and 417 of IPC.

2.It is seen from the FIR, the allegation is that the petitioners violated the conditions imposed on the contract between the petitioners and the second respondent herein. The petitioners were employees of the second respondent. While they were entered into their employment, there are an agreement between the petitioners and the second respondent contending the following clauses:-

"The Employee further agrees that he or she shall not be employed in a business substantially similar to, or competitive with, the present business of the Company or such other business activity in



which the Company may substantially engage during the term of employment and for a period of 2 years following the termination/separation, notwithstanding the cause or reason for termination/separation.

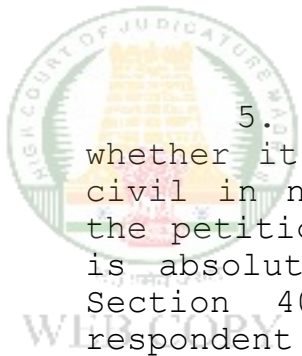
WEB COPY This non-compete agreement shall extend for a radius of 50 Kilometers of the Company's Present location and shall be in full force and effect during the period of employment and for two (2) years following employment termination/separation, notwithstanding the cause or reason for termination/separation.

The Employee shall not make any statements, written or verbal, or cause or encourage others to make any statements, written or verbal, that defame, disparage or in any way criticize the personal or business reputation, practices, or conduct of this Company, its employees, directors and officers. And also employeeed agree that this prohibition extends to statements, writtem or verbal, made to anyone, including but not limited to, the news media, public domain like web-sites, investors, potential investors, directors, industry analyst, competitors, strategic partners, vendors, employees (past and present), and clients.

If Employee are found that, not ensuing the above mentioned, will be liable to pay damages to the Company to the loss sustained due to such conduct on your end."

3. Accordingly, the Employees shall not be employed in a business substantially similar to, or competitive with, the present business of the Company or such other business activity in which the Company may substantially engage during the term of employment for a period of 2 years from their termination. Further, also restricted for starting new Company from the radius of 50 kilometres of the second respondent Company within a period of 2 years from their date of termination.

4. According to the second respondent, now the petitioners were terminated from the employment and thereafter, they started same kind of Company in the name and style of 'Rapport IT Services' within a radius of 50 Kilometres distance of the Company. Therefore, the second respondent lodged a complaint before the respondent police, which has been registered in Crime No.36 of 2019 for the offence under Sections 406 and 417 of IPC.



5. It is seen from the agreement there are some clause whether it is valid or not? and all the clauses are pertaining to civil in nature. Any other offence does not constitute as against the petitioners alleged by the second respondent. That apart, there is absolutely no allegation to attract any of the offence under Section 406 IPC. The entire complaint lodged by the second respondent is violated and it is nothing, but, clear abuse of process of law.

6. Accordingly, FIR in Crime No.36 of 2019, on the file of the 1st respondent police, is hereby quashed and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Inspector of Police,
City Crime Branch,
Trichy District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Section Officer,
Criminal Section,
Madurai Bench of Madras High court, Madurai

+1 CC to Mr.T.LENIN KUMAR, Advocate (SR-93640[F] dated 22/10/2019)

Crl.O.P.(MD)No.10592 of 2019

and

Crl.M.P.(MD)No.6600 of 2019

22.10.2019

dss

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