IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2020

CORAM :

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.7306 of 2015
and
M.P.No.1 of 2015

C.K.Rajappa ...Petitioner/Accused No.1

..Vs..

M.Ganesan ...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, seeking to quash the complaint filed by the respondent in Crl.M.P.No.6375 of 2014 on the file of the XI Metropolitan Magistrate Court, Saidpet, Chennai.

For Petitioner : Mr.N.Balaji
for M/s.Mcgan Law Firm

For Respondent : Mr.M.M.Mohammed Rafi

ORDER

This criminal original petition has been filed by the petitioner/A.1 seeking to quash the complaint filed by the respondent in Crl.M.P.No.6375 of 2014, dated 15.12.2014.

2. The learned XI Metropolitan Magistrate, Saidapet, Chennai, had forwarded the complaint of the respondent under Section 156(3) of Cr.P.C. in Crl.M.P.No.6375 of 2014.

3. When the matter was taken up for hearing on 05.03.2020, the learned counsel for the petitioner submitted that he has given the change of vakalath to the parties. This Court informed the learned counsel for the petitioner that the counsel cannot withdraw his appearance unilaterally without proper authorization and directed him to produce acknowledgment for handing over the bundle and letter, if any, has been given to

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the Registry. Today, i.e., on 06.03.2020, the learned counsel for the petitioner has stated that he had informed the parties but he is unable to produce any material.

4. The contention of the learned counsel for the petitioner is that the petitioner had earlier presented a complaint against the respondent and his wife on 24.05.2014 and a case came to be registered in Crime No.247 of 2014 for the offences under Sections 406, 420 and 506 (ii) IPC. As a counter blast, the above case has been initiated against the petitioner. It is the further contention that it is purely a commercial transaction which have been given a criminal colour. The learned XI Metropolitan Magistrate, Saidapet, Chennai, without finding any prima facie material, had mechanically forwarded the complaint under Section 156(3) Cr.P.C. It is further submitted that the respondent had obtained an order of anticipatory bail for the complaint lodged by the petitioner and in which, the respondent has given an undertaking and to circumvent the same, the above complaint has been lodged against the petitioner.

5. Learned counsel appearing for the respondent would submit that a case in Crime No.521 of 2015 had been registered against the petitioner, who is A.1 and one Krishnamoorthy and Mohan, who are A.2 and A.3 respectively for the offences under Sections 417, 465, 468 and 471 of IPC; investigation is completed and charge sheet is pending for approval. It is further submitted that during the course of investigation, Forensic Report dated 21.11.2019 had been obtained from the Forensic Department and the complicity of the petitioner with the other accused in the commission of offences has been made out and hence, the learned counsel for the respondent prayed for dismissal of the present criminal original petition.

6. Learned counsel appearing for the respondent would further submit that challenging the order dated 25.03.2015 passed by the learned XI Metropolitan Magistrate, Saidapet, Chennai, in Crl.M.P.No.6375 of 2014, the petitioner had earlier filed a revision case in Crl.R.C.No.289 of 2015 and this Court, on 27.11.2015 had passed a detailed order. It is suffice to say that the contentions and the grounds raised in the above said criminal revision case as well as in this criminal original petition are one and the same. Though this criminal original petition is nothing but a second revision, which is prohibited in law, the same cannot be entertained and hence, the learned counsel for the respondent prayed for dismissal of the above criminal original petition.

7. Considering the submissions made by the learned counsel on either side, this Court, on perusal of the order passed in Crl.R.C.No.289 of 2015, finds that the points raised by the

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petitioner have already been agitated before this Court in the above said criminal revision case and the present criminal original petition would amount to second revision. Further, in view of the submission made by the learned counsel for the respondent that the investigation is completed and charge sheet is to be filed, nothing survives in this matter and hence, this Criminal Original Petition is liable to be dismissed.

8. In the result, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Jrl

To

XI Metropolitan Magistrate Court,
Saidpet,
Chennai.

+1cc to Mr.M.Mohammed Rafi, Advocate,S.R.No.20387

+1cc to M/s.Gan Law Firm,S.R.No.20578

CRL.O.P.No.7306 of 2015

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