

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 09.12.2020

PRONOUNCED ON : 15.12.2020

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P.NO.25489 OF 2016 AND CRL.M.P.NO.12370 OF 2016
AND

CRL.O.P.NO.27467 OF 2016

CRL.O.P.No.25489 of 2016

Savithri

..Petitioner/Accused 3

Vs.

1.State : Inspector of Police
R.S.Puram Police Station
Coimbatore City

2.M/s.Consolidated Premium Retailer (I Planet)
Rep. by Narayanan
Door No.189, Basiyakaralu Street
R.S.Puram, Coimbatore City

..Respondents

CRL.O.P.No.27467 of 2016

Anandha Kumar

..Petitioner/4th Accused

Vs.

1.State rep. by the Inspector of Police
R.S.Puram Police Station
Coimbatore City, Coimbatore Dt.

2.Narayanan.V
M/s.Consolidated Premium Retailer (I Planet)
186, Bashyagaralu Road
R.S.Puram, Coimbatore 641 002

..Respondents

Criminal Original Petitions filed under Section 482 Cr.P.C., to call for the records and quash the F.I.R. against the petitioner in Cr.No.697 of 2016 on the file of the Inspector of Police, R.S.Puram Rural Police Station, Coimbatore City.

For Petitioner : Mr.K.S.Kaviarasu
in Crl.OP.25489/2016

For Petitioner : Mr.M.Rajesh
in Crl.OP.27467/2016

For 1st Respondent : Mrs.P.Kritika Kamal
in both Crl.OPs Govt. Advocate (Crl.Side)

For 2nd Respondent : Mrs.M.Devi
in both Crl.OPs for Mr.P.Mahesh Kumar

C O M M O N O R D E R

Since both the Criminal Original Petitions emanate from the same F.I.R., they are considered and decided by this common order.

2. For the sake of convenience, the parties will be referred to by their names.

3. On a complaint lodged by Consolidated Premium Retailer (I Planet)/de facto complainant (for brevity "Consolidated"), the police registered a case in Crime No.697 of 2016 on 24.10.2016 for the offences under Sections 120-B, 406 and 420 IPC against 1.Ramlakshmanan (A1), 2.Rajesh (A2), 3.Savithri (A3), 4.Anandha Kumar (A4) and 5.Ummer Sherif (A5), for quashing which, Savithri (A1) has filed CRL.O.P.No.25489 of 2016 and Anandha Kumar (A4) has filed CRL.O.P.No.27467 of 2016.

4. Heard Mr.K.S.Kaviarasu, learned counsel for Savithri (A3); Mr.M.Rajesh, learned counsel for Anandha Kumar (A4); Mrs.P.Kritika Kamal, learned Government Advocate (Crl. Side) appearing for the respondent State and Mrs.M.Devi, learned counsel representing Mr.P.Mahesh Kumar, learned counsel on record for Consolidated.

5. Consolidated, Coimbatore has its retail unit by name I Planet, through which, they sell Apple cellphones, iPad and other computer accessories. They have branches in other places like Tirupur, Madurai, Bangalore etc. They issue advertisements in various newspapers for promotion of their business.

Ramlakshmanan (A1) was working as Retail Manager (Audit) from 2011 in Consolidated and was in charge of the advertisement department. Ramlakshmanan (A1) got acquainted with Rajesh (A2) of Media Meet, Savithri (A3) of Savithri Ad Agency and Anandha Kumar (A4) of Jasmine Advertising, through whom, various advertisements were issued and payments made by Consolidated. On the recommendation of Ramlakshmanan (A1), Consolidated would make payments to the advertising agencies from time to time. During the course of audit, it was found on 29.12.2015 that, a sum of Rs.35,20,000/- had been siphoned off by Ramlakshmanan (A1) through the advertising agencies referred to above, by manipulation of bills and records. The complaint discloses in detail, the various strategies adopted by the accused for misappropriation of the funds.

6. Mr.Kaviarasu contended that Savithri (A3) has already given a complaint against the Manager of Consolidated, based on which, a C.S.R.No.23 of 2016 was registered. He further contended that Consolidated filed a civil suit in O.S.No.118 of 2016 against Savithri (A1), for the relief of injunction. He also contended that in the light of these happenings, the F.I.R. against the accused is an abuse of process of law.

7. Per contra, Mrs.P.Kritika Kamal, learned Government Advocate (Crl. Side) refuted the aforesaid contentions.

8. This Court gave its anxious consideration to the rival submissions.

9. A complete reading of the F.I.R. shows that, over a period of time, all the accused, including the petitioners herein have been stealthily defrauding Consolidated by fabricating records. They have manufactured various bills to support their bogus claim. Just because, Savithri (A1) had given a police complaint earlier and as a counter blast, a suit for injunction was filed by Consolidated against Savithri (A1), the allegations in the complaint, which do prima facie show the commission of cognizable offences, cannot be quashed on the ground of malice since malice is a question of fact, that has to be decided only during trial, as held by the Supreme Court in State of Bihar and Another Vs. P.P.Sharma and Another [1992 Supp (1) SCC 222]. In the result, the case at hand does not pass muster the law laid down by the Supreme Court in State of Haryana Vs. Bhajan Lal and Others (AIR 1992 SC 604) for quashing the F.I.R.

In fine, these Criminal Original Petitions are dismissed. Connected Miscellaneous Petition is closed. However, this Court is of the opinion that, this case deserves to be investigated by the Central Crime Branch, Coimbatore City, since R.S.Puram

Police Station is essentially a law and order police station and ill-equipped for investigation of such cases of fraud. Therefore, this Court transfers the investigation in Crime No.697 of 2016 from the file of the Inspector of Police, R.S.Puram Police Station, Coimbatore to the file of the Central Crime Branch, Coimbatore. The Inspector of Police, R.S.Puram Police Station, Coimbatore shall transfer the case in Crime No.697 of 2016 to the Central Crime Branch, Coimbatore under intimation to the Commissioner of Police, Coimbatore City within two weeks from the date of receipt of a copy of this order. The Central Crime Branch, Coimbatore is directed to proceed with the investigation of the case expeditiously.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Commissioner of Police
Coimbatore City
- 2.The Inspector of Police
R.S.Puram Police Station
Coimbatore City
Chennai-7
- 3.The Central Crime Branch
Coimbatore City
- 4.The Public Prosecutor
High Court of Madras

+1cc to Mr.P.Mahesh Kumar, Advocate, SR41005

CRL.O.P.No.25489 of 2016
AND
CRL.O.P.No.27467 of 2016

CO(RLD)
BDL/31/12/2020