IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 08.09.2020

DELIVERED ON: 16.09.2020

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.R.C. No.753 of 2020

Veena Textiles Ltd.
represented by its Managing Director
K.S. Elavarashen
11-F Fandhipuram
Kumarapalayam 638 183 ... Petitioner

vs.

1 O. Ramesh Babu
Senior Vice President
IFCI Ltd.
142 Nungambakkam High Road
Chennai 600 034.

2 R. Govindarajan
Manager (Law)
IFCI Ltd.
142, Nungambakkam High Road
Chennai 600 034.

3 V. Sreekumaran Nair
DGM (Law)
IFCI Ltd.
142, Nungambakkam High Road
Chennai 600 034. ... Respondents

Criminal Revision filed under Section 397 r/w 401 Cr.P.C. seeking to call for the records in Crl.M.P. No.2692 of 2019 on the file of the Judicial Magistrate, Thiruchengode, examine the correctness, legality or propriety of the findings and set aside the order dated 28.01.2020 passed in Crl.M.P. No.2692 of 2019 by the Judicial Magistrate, Thiruchengode and direct the Judicial Magistrate, Thiruchengode and proceed in accordance with law.

For petitioner : Mr. S. Radhakrishnan

ORDER

For the sake of convenience, the petitioner, viz., Veena Textiles Ltd., will be referred to as the complainant.

2 The complainant filed a private complaint before the Judicial Magistrate, Thiruchengode, alleging that Ramesh Babu, Senior Vice President, Industrial Finance Corporation of India Ltd. ("IFCI Ltd." for short), Govindarajan, Manager – Law, IFCI Ltd. and Sreekumaran Nair, Dy. General Manager – Law, IFCI Ltd. (respondents 1 to 3 herein), have committed offences under Sections 120-B, 210, 384, 406,409,506 (II) IPC read with Section 23,24,25,43 and 44 IPC. This complaint was taken on file as C.M.P. No.2692 of 2019 and the complainant was directed to examine their witnesses under Section 200 Cr.P.C.

3 It is the case of the complainant that they were engaged in the business of textile manufacturing and marketing; they were given a term loan of Rs.700 lakhs by a consortium of financial institutions comprising ICICI Ltd., IRBI and State Bank of India; IRBI was subsequently renamed as IIBI Ltd; IIBI Ltd. assigned the debt to IFCI Ltd.; since the complainant was not able to repay the loan amounts, ICICI Ltd. instituted a suit for recovery in the Debts Recovery Tribunal ("the DRT" for short), Mumbai, in which, IIBI Ltd. was also shown as a respondent; the other financial institutions accepted to settle the matter with the complainant by entering into an One Time Settlement; while so, during the pendency of the proceedings in the DRT, Mumbai, IFCI Ltd. initiated proceedings in the DRT-II, Chennai, against the complainant for recovery of a sum of Rs.1,99,77,619/-; pursuant to the order of the DRT, Mumbai, IIBI Ltd. received a sum of Rs.40,59,900/- on 14.11.2006, despite which, IFCI Ltd. proceeded with the case that was filed in O.A. No.165 of 2015 (old O.A. No.1023 of 1999) and obtained an order on 07.12.2018 against the complainant.

4 The nub of the allegation in the private complainant is that the accused officers of IFCI Ltd. had suppressed the various payments received by IIBI Ltd. and had obtained an order from the DRT-II, Chennai.

5 The complainant examined Elavarashen, its Managing Director, as P.W.1 before the Judicial Magistrate, Tiruchengode, in the private complaint. No document was marked by Elavarashen (P.W.1) in support of the allegation. The Judicial Magistrate, Thiruchengode, recorded the sworn statement of the said Elavarashen (P.W.1). However, the private complaint was dismissed on 28.01.2020 under Section 203 Cr.P.C. aggrieved by which, the present criminal revision has been filed.

6 Heard the learned counsel for the complainant, who took this Court through the order dated 07.12.2018 passed by the DRT-II, Chennai, in O.A. No.165 of 2015 and submitted that the DRT-II, Chennai, has relied upon the deed of assignment dated 25.05.2011 that was marked as Ex.A.12 before it, which was held to be null and void in the writ petition filed by the complainant in W.P. No.8761 of 2014 vide order dated 01.08.2014. The learned counsel for the complainant also took this Court through the amounts that were allegedly paid by the complainant to IIBI Ltd. and submitted that all these facts have been suppressed by the accused in their application before the DRT-II, Chennai.

7 This Court carefully considered the submissions advanced by the learned counsel for the complainant. In the opinion of this Court, none of the submissions has any merit. The order passed by the DRT-II, Chennai, in O.A.No.165 of 2015 on 07.12.2018 was a contested order, in which, the counsel for the complainant had advanced his arguments and only thereafter, the Presiding Officer of the DRT-II, Chennai, had passed the order dated 07.12.2018. This Court is unable to fathom as to how the officers of IFCI Ltd. could be mulcted with criminal liability for having initiated recovery proceedings before the DRT-II, Chennai. Even in the complaint, there is absolutely no whisper about the overt acts of each of the accused in the alleged offences. If the complainant is aggrieved by the order passed by the DRT-II, Chennai, there is a remedy to it to approach the DRAT and thereafter, to move the High Court. Instead, filing a private complaint against the officers of IFCI Ltd. is nothing short of harassing and intimidating them.

In the result, this criminal revision stands dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1 The Judicial Magistrate,
Tiruchengode.

2 The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

Crl.R.C. No.753 of 2020

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srg 12/10/2020