

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2020

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THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

CrI.O.P No.33140 of 2019
and
CrI.M.P.No.18274 of 2019

P. Inbaraj

...Petitioner

Vs.

1. State represented by
Inspector of Police,
V-7, Nolambur Police Station,
Chennai - 600 037.

2. Ranjith Kumar

...Respondents

PRAYER: The Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to call for the records in Crime No.294 of 2019 on the file of the Inspector of Police, V-7, Nolambur Police Station, and quash the same.

For Petitioner : No appearance
For 1st Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor
R2 : Not ready in notice

O R D E R

The present Criminal Original Petition has been filed praying to call for the records in Crime No.294 of 2019 on the file of the Inspector of Police, V-7, Nolambur Police Station, Nolambur, and quash the same as illegal.

2. In spite of repeated adjournments, even after showing the name of the petitioner and the counsel in the cause list, none appeared on behalf of the petitioner.

3. Heard Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the respondent police.

4. The petitioner herein is arrayed as accused No.3 in Crime No.294 of 2019 on the file of the respondent police. The said F.I.R has been registered for the offences under Sections 420, 465, 468, 471 and 506(i) of I.P.C.

5. Now on going through the averments found in the impugned F.I.R., it appears that during the time of occurrence, by mentioning the name of K.R.Niventhan alleged that he is the Proprietor of Anvaya Mines and Infrastructure India Private Limited, the petitioner and his friend Sakthi were introduced themselves and after showing the permit issued by the BHEL stands in the name of one Sakthi received a sum of Rs.25,00,000/- from the 2nd respondent promising to repay the same with 50% profits. Subsequent to the said occurrence, the defacto complainant/second respondent came to know that the said permit alleged to be issued by the BHEL in the name of Sakthi is a forged one. Therefore, the said representation made by the petitioner and others before the second respondent and subsequent events show that during the time of occurrence, in order to deceive the second respondent with dishonest intention, the petitioner and others approached the second respondent and received the amount after making the false promise.

6. The said averments found in the impugned F.I.R. discloses a prima facie case for the offences under Sections 420, 465, 468, 471 and 506(i) of I.P.C. narrated in the impugned F.I.R.

7. At this juncture, it is necessary and useful to see the judgment of the Hon'ble Apex Court in the case of SAU. KAMAL SHIVAJI POKARNEKAR vs. THE STATE OF MAHARASHTRA & ORS. in Criminal Appeal No. 255 of 2019, wherein, the Hon'ble Apex Court has held as follows:-

"5. Quashing the criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same. It is not necessary that a meticulous analysis of the case should be done before the Trial to find out whether the case would end in conviction or acquittal. If it appears on a reading of the complaint and consideration of the allegations therein, in the light of the statement made on oath that the ingredients of the offence are Sonu Gupta v. Deepak Gupta and Ors. 2015 (3) SCC 424. disclosed, there would be no justification for the High Court to interfere.

6. Defences that may be available, or facts/aspects which when established during the trial, may lead to acquittal, are not grounds for

quashing the complaint at the threshold. At that stage, the only question relevant is whether the averments in the complaint spell out the ingredients of a criminal offence or not."

8. Therefore, applying the ratio laid down in the above-referred judgment in this case also since the reasons that the averments found in the First Information Report discloses the prima facie case for the offences which registered against the petitioner, it needs an elaborate enquiry. Only the trial Court can decide the truthfulness of the allegation levelled by the second respondent against the petitioner and others.

9. Therefore, the grounds raised by the petitioner did not indicate the factum of abuse of process in registering the F.I.R. against him. Accordingly, the Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
V-7, Nolambur Police Station,
Chennai - 600 037.
2. The Public Prosecutor,
High Court, Madras.

सत्यमेव जयते

Cr1.O.P No.33140 of 2019
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PM(CO)
KKV/05/01/2021

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