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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.11.2021

CORAM

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

CRL.O.P.NO.21649 OF 2015

AND

M.P.NO.1 OF 2015

M/s. Sprint Telefilms Private Limited,
rep. by its Director
Mr. A.Thirumal Reddy,
House No.8-2-269/19/S1,
Lane Beside-L.V.Prasad Eye Hospital,
Road No.2 , Banjara Hills,
Hyderabad-500 034

...Petitioner / Accused

Vs

M/s. Srinivasa Visuals Private Limited,
rep. by its Director
Mr. Vinaya Krishnan,
New No.15, Old No.60 & 61,
Sitakamalaksh, 1st floor,
4th street, Abhiramapuram,
Chennai 600 018

...Respondent / Complainant

Criminal Original Petition filed under Section 482 of Criminal Procedure Code to call for the records pertaining to the pending case in C.C.No.3370 of 2015 on the file of XXIII Metropolitan Magistrate, Saidapet, Chennai, to quash the same in so far as it relates to the petitioner/accused.

For petitioner	:	Mr.M.Muthappan
For respondent	:	Mr.S.Kumaresan

ORDER

The petitioner, who is an accused, in a private complaint filed for the offence under Sections 406, 465, 467, 468 & 420 of IPC, in CC.No.3370 of 2015 on the file of the XXIII Metropolitan Magistrate, Saidapet, Chennai, has filed this Criminal Original Petition to quash the same.

2. The respondent/complainant is the producer of a Tele Serial and the petitioner/accused is a Marketing Agent. The allegation in the private complaint is that respondent/



complainant produced a Tele Serial, namely "Ala Modalaindi", which was to be aired in Gemini TV. Earlier both the parties have entered into a Memorandum of Understanding (MOU), and as per the said MOU, the petitioner/accused received the finished products/ Serials in Tapes/ Cassettes for exploitation of the episode Nos.36 to 88 and also agreed to pay Rs.70,000/- per episode on monthly basis, totalling to a sum of Rs.41,68,556/-. Even after telecasting, for the entire 53 episodes, the petitioner/accused only paid a sum of Rs.34 lakhs and the remaining sum of Rs.6,85,184/- is yet to be paid. Apart from that, a sum of Rs.83,372/- has to be paid towards TDS and in total, a sum of Rs.6,68,556/- is yet to be paid. In the above circumstances, the complainant sent a legal notice to the petitioner directing him to settle the amount. Despite the notice, no amount has been paid. Thereafter, the respondent/complainant had lodged a private complaint under Sections 406, 465, 467, 468 and 420 of IPC before the XXIII Metropolitan Magistrate, Saidapet, Chennai alleging that the petitioner/accused has cheated the respondent/complainant and the same was taken cognizance in C.C.No.3370 of 2015 and summons issued. Now, challenging the same, the present quash petition has been filed by the petitioner/accused.

3. The learned counsel for the petitioner submitted that earlier, as per the Memorandum of Understanding, the petitioner is entitled to convert the Memorandum of Understanding into an agreement based on the TAM ratings of the program. Since the programme was not reached well, he did not get any advertisement. Hence, accused incurred loss and on 19.12.2012, the petitioner sent a letter informing that they would discontinue to market the serials, which was also followed by another letter dated 28.12.2012 stating that they have incurred loss of Rs.25 Lakhs for want of proper advertisement. Even after the receipt of the above two notices, the complaint has been filed only in the year 2015 alleging that the petitioner has cheated the complainant. It is a civil dispute between the parties and deliberately a criminal complaint has been given and the learned Judicial Magistrate also without applying his mind taken cognizance on the complaint.

4. The learned counsel appearing for the respondent/complainant would submit that as per the Memorandum of Understanding, the accused should pay Rs.70,000/- per episode and after telecasting the entire episodes, deliberately failed to pay the amount as per the agreement, thereby, cheated the complainant. Hence, after issuance of proper notice making demand to pay the amount, the present complaint has been filed. The learned Judicial Magistrate also considering the entire materials rightly, taken cognizance and issued summons and hence, there is no reason to quash the complaint.



5. This Court considered the rival submissions made on either side and perused the materials available on records carefully.

6. From the perusal of the records, it is seen that there was an agreement between the parties for telecasting a Tele Serial. As per the agreement, the petitioner/accused agreed to pay Rs.70,000/- per episode. Further it is also agreed that the amount will be refixed based on the TAM ratings of the programme. In the year 2012 itself, the petitioner/accused said to have sent a notice to the complaint that he is not getting any advertisement and he has incurred loss to the tune of Rs.25 lakhs, which was also followed by another letter, and, there are exchange of letters between the parties. Thereafter, the present complaint has been filed only in the July 2015. From those materials, it is clear that it is purely civil dispute between the parties. Whether the petitioner has violated the terms of contract or not is a matter to be decided in a Civil Court, Absolutely, no offence made out under Sections 406 and 420 of IPC. The learned Judicial Magistrate, without considering the same, mechanically taken cognizance in the above complaint. Since no offence has been made out as against the petitioner, the complaint is only liable to be quashed.

7. Accordingly, this Criminal Original Petition is allowed and the complaint against the petitioner in C.C.No.3370 of 2015 on the file of the XXIII Metropolitan Magistrate, Saidapet, Chennai, is quashed. Consequently, connected miscellaneous petition is closed. The only remedy available to the petitioner is to approach the Civil court for recovery of money.

Sd/-
Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar

mrp

To

The XXIII Metropolitan Magistrate,
Saidapet, Chennai.

+1cc to Mr.S.Kumaresan, Advocate SR.No.61279

CrI.O.P.No.21649 of 2015

AK-II(CO)
RVM(09/12/2021)