IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :01.12.2021

CORAM

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

Crl.O.P.No.27983 of 2015
and
Crl.O.P.No.28708 of 2015
and
M.P.No.1 of 2015

Crl.O.P.No.27983 of 2015

1.P.Balakrishnan
S/o Periyasamy Thevar ...Petitioner/Accused No.1

2.Chinnathevar Indhira
W/o Ravichandran

3.D.Palani
S/o Dondhithevar

4.S.Nagarajan
S/o T.Subbuthevar

5.A.Senthil
S/o Ammavaasaithevar

6.B.Pradeep
S/o P.Balakrishnan ..Petitioners/Accused Nos.3 to 7

/versus/

1.State rep.by
Superintendent of Police,
Salem District.

2.The Deputy Superintendent of Police,
District Crime Branch,
Salem District,
Salem.(Cr.No.8 of 2015)

3.The Sub Inspector of Police,
District Crime Branch,
Salem District,
Salem.

4.Inspector of Police,
District Crime Branch,
Salem District,
Salem. ..Respondents/Complainant

5.S.Sivaram Reddy(deceased)
S/o Sesha Reddy

6.Mrs.Lakshmi Bhagyasri
W/o late S.Sivaram Reddy

7.Minor Kovidha Reddy
S/o late S.Sivarama Reddy

8.Minor Druthi Sri lakshmi Reddy
D/o late S.Sivarama Reddy
Duly represented by her mother
and natural guardian
(R6 to R8 is impleaded as per order
in Crl.M.P.No.4031/2021 in
Crl.O.P.No.27983 of 2015 dated
27.04.2021) ..Proposed Respondents/Legal heirs
of de-facto complainant

Prayer:- Criminal Original Petition has been filed under Section 482 of Cr.P.C., praying to call for all the records in Crime No.8 of 2015 on the file of the third respondent and quash the same.

For Petitioners :Mr.S.Ashok Kumar,
For Respondents :Mr.C.E.Pratap
Government Advocate(crl.side)
for R1 to R4
Mr.V.G.Anbarasu for R5

Crl.O.P.No.28708 of 2015
METTUR SPINNING MILLS LIMITED,
METTUR DAM
Rep.by its Directors

1.P.Srinivasan
S/o Sri V.Perumal Chettiar

2.Mr.K.N.Krishnaswamy
S/o Sri K.Nanjappa Chettiar

3.Mr.P.Natarajan,
S/o Sri V.Perumal Chettiar
4.Mr.K.N.Varadarajan

S/o Sri K.Nanjappa Chettiar

5.Mr.G.Srikanth
S.o Sri K.N.Gnanaprakasam

6.Mr.K.N.Mohanram
S/o Sri K.Nanjappa Chettiar

7.Mr.Govindaraj Chandrasekar
S/o Sri Govindaraj Chettiar
All having registered office at
T.N.K.House,
No.48, Anna Salai,
Chennai 600 002. ..Petitioners/Accused

/versus/

1.The Sub Inspector of Police,
District Crime Branch,
Salem District,
Salem.

2.The Deputy Superintendent of Police,
District Crime Branch,
Salem District,
Salem.

3.Mr.P.Sivarama Reddy(deceased)
Proprietor,
Sri Vijayalakshmi Cotton Traders,
11/217, Amaravathy Road,
Opp. IDEA Hospital,
Guntur, Andhra Pradesh. ..Respondents/Defacto Complainants

4.Mrs.Lakshmi Bhagyasri
W/o S.Sivaram Reddy

5.Minor Kovidha Reddy,
S/o late S.Sivarama Reddy

6.Minor Druthi Sri Lakshmi Reddy
D/o late S.Sivarama Reddy
Duly represented by her mother
and natural guardian ..Proposed Respondents/ Legal heirs of defacto complainant

(R4 to R6 is impleaded as per order
in Crl.M.P.No.4030 of 2021 in
Crl.O.P.No.28708 of 2015 dated 27.04.2021)
Prayer:- Criminal Original Petition has been filed under Section

482 of Cr.P.C., praying to call for the records and quash the FIR in Crime No.8 of 2015 with regard to the petitioners herein on the file of the second respondent, the Deputy Superintendent of Police, District Crime Branch, Salem/respondent herein.

For Petitioners :Mr.I.Abrar Md.Abdullar for
Mr.R.Anand Kumar

For Respondents :Mr.C.E.Pratap
Government Advocate(crl.side)
for R1 and R2
Mr.V.G.Anbarasu
Bharathi Anbarasu for R3

COMMON ORDER

(The cases have been heard through Video Conferencing)

In Crl.O.P.No.27983 of 2015, the Petitioners, who are arrayed as A1, A3 to A7, have filed this petition to quash the First Information Report in Crime No.8 of 2015 registered for the offences under Sections 406, 420, 342 and 506(i) of IPC on the file of the 3rd respondent.

In Crl.O.P.No.28708 of 2015, the Petitioners, who are arrayed as A2, A8,A9 and A11 to A14, have filed this petition to quash the First Information Report in Crime No.8 of 2015 registered for the offences under Sections 406, 420, 342 and 506 (i) of IPC on the file of the 1st respondent.

2.The allegation against the petitioners in the First Information Report is that, in Crl.O.P.No.27983 of 2015, the first petitioner P.Balakrishnan is the Managing Director of one M/s Mettur Spinning Mills Limited. The 5th respondent/de-facto complainant is running a Cotton Mill in the name and style of M/s Vijayalakshmi Cotton Traders, Guntur, Andhra Pradesh. The other petitioners/accused 3 to 7 in Crl.O.P.No.27983 of 2015 are the relatives of the first petitioner Balakrishnan. In Crl.O.P.No.28708 of 2015, the petitioners/accused 2, 8, 9 and 11 to 14 are also the Directors of M/s Mettur Spinning Mills Limited.

3.According to the de-facto complainant/Sivarama Reddy, the accused company, namely, M/s Mettur Spinning Mills Limited, purchased cotton from the de-facto complainant in the year 2006 and there was a due of Rs.3.8 crores towards purchase of cotton. Subsequently, the first accused/Balakrishnan entered into a lease agreement with the de-facto complainant/company in the year 2007 and after receiving a sum of Rs.1 crore from the de-facto complainant and the Mill was leased out to the de-facto complainant with infrastructure and the de-facto complainant had stocked cotton and yarn, worth about Rs.1,40,00,000/- within the Mill premises. Without knowledge of the de-facto complainant, the first accused/Balakrishnan and other accused sold the Mill to the third party. When the de-facto complainant asked the accused persons to repay the money, they failed to repay the dues and thereby cheated the petitioners. Hence, a complaint has been given on 15.05.2015 to the Sub-Inspector of Police, District Crime Branch, Salem. Based on the complaint, First Information Report was registered in Crime No.8 of 2015 for the offences under Sections 406, 420, 342 and 506(i) of IPC against the petitioners in both the petitions. Hence, the petitioners have filed these petitions to quash the First Information Report.

4.Mr.S.Ashok Kumar, the learned Senior Counsel appearing for the petitioners in Crl.O.P.No.27983 of 2015 submitted that, it is purely a money dispute between the parties. Admittedly, in the year 2007, the de-facto complainant entered into a lease agreement with the petitioners and as per the lease agreement, he was running the Mill for more than two years and he had also approached this Court in the year 2008 against Electricity Board to forbear the Electricity Department from disconnecting the power supply of the Mill, he abandoned the Mill. After seven years, he filed a frivolous complaint against the petitioners/accused, as the petitioners cheated the de-facto complainant. The learned counsel appearing for the petitioners also submitted that the first petitioner/first accused is only the Managing Director of the company. The other petitioners in Crl.O.P.No.27983 of 2015 are the relatives of the first petitioner/first accused. They are not the Directors of the Company.

5.Mr.I.Abrar Md.Abdullar, learned counsel appearing for the petitioners in Crl.O.P.No.28708 of 2015 submitted that the petitioners are the Directors of the Company. As per the First Information Report, all the transactions were made only by Balakrishnan/first accused, who is the Managing Director of the Company and absolutely, there is no allegation against the other petitioners that they are also responsible for the day to day affairs of the Company and they have wrongly been implicated in this case.

6.Per contra, Mr.V.G.Anbarasu, the learned counsel appearing for the de-facto complainant would submit that, the petitioners purchased yarn from the de-facto complainant company to the tune of Rs.3.8 crores, which is payable by the petitioners to the de-facto complainant company. Even though the de-facto complainant entered into the lease agreement with the Company and was running the business for some time, but, he could not realise the amount dues in respect of the company. Even though the de-facto complainant entered into the lease agreement, the petitioners did not permit him to run the business profitably and hence, the de-facto complainant handed over the premises to the petitioners. Admittedly, there is a huge sum of R.3.8 crores payable by the petitioners. Inspite of several requests, the petitioners company did not pay the money and cheated de-facto complainant. Hence, he lodged the complaint against the accused persons and prima facie case is made out to proceed against the accused persons and there is no reason to quash the First Information Report.

7.Mr.C.E.Pratap, the learned Government Advocate(Crl.Side) submitted that investigation has been completed and final report was filed only on 30th November, 2015.

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

9.The allegation in the complaint is against M/s Mettu Spinning Mills Limited, in which the first petitioner in Crl.O.P.No.27983 of 2015 is the Managing Director. The petitioners Mill had purchased cotton/yarn from the de-facto complainant company to the tune of Rs.3.8 crores, but they failed to repay the said amount, thereby cheated the de-facto complainant.

10.It is contended by the petitioners/accused that, the alleged purchase of cotton/yarn was of the year 2006. Thereafter, the de-facto complainant himself entered into the lease agreement with the company in the year 2007 and taken possession of the company and he was running the Mill for more than two years and then, he abandoned the Mill. After seven years, the present complaint has been filed against the petitioners on the ground of cheating.

11.On perusal of the complaint, it is seen that, it is purely a money dispute between the parties. The de-facto complainant admitted in the complaint that in the year 2006, they purchased the cotton/yarn, thereafter in the year 2007, the de-facto complainant himself took over the company on lease and he was running the business for some time and there are several transactions between the parties in the meantime. Absolutely, there is no averment in the First Information Report prima facie to make out an offence under Section 420 IPC. That apart, it is stated that the petitioners 2 to 7/accused 3 to 7 in Crl.O.P.No.27983 of 2015 are not the Directors of the company and they are only relatives of A1/Balakrishnan. The First Information Report does not contain any allegation against him. Insofar as the other petitioners in Crl.O.P.No.28708 of 2015, absolutely there is no allegation in the complaint that they are in-charge of the day to day affairs of the Company. Hence, they are also not liable to be prosecuted in the case.

12.In such circumstances, this Court is of the considered view that, it is only a civil dispute regarding money transaction between the parties and no prima facie case has been made out for the above said offences and hence, this criminal complaint in Crime No.8 of 2015 is liable to be quashed. If at all any amount is due, it is always open to the de-facto complainant to approach the concerned Civil Court for recovery.

13.Accordingly, these Criminal Original Petitions are allowed and the complaint against the petitioners in Crime No.8 of 2015 on the file of the Sub Inspector of Police, District Crime Branch, Salem District, Salem, is quashed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To:

1.The Superintendent of Police,
Salem District.

2.The Deputy Superintendent of Police,
District Crime Branch,
Salem District,
Salem.(Cr.No.8 of 2015)

3.The Sub Inspector of Police,
District Crime Branch,
Salem District,
Salem.

4.The Inspector of Police,
District Crime Branch,
Salem District,
Salem.

5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Ashok Kumar, Advocate, Sr.No.62957
+2cc to Mr.V.G.Anbarasu,, Advocate, S.R.No.62828, 62829
+1cc to Mr.R.Anandkumar, Advocate, S.R.No.63076

Crl.O.P.No.27983 of 2015
and
Crl.O.P.No.28708 of 2015
and
M.P.No.1 of 2015

SR(CO)
KKV/13/12/2021