



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.10.2021

PRONOUNCED ON : 21.10.2021

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

CRL.O.P.NO.6370 OF 2016

AND

CRL.M.P.NOS.3295 & 3296 OF 2016

1. N.Krishnamoorthy
2. T.Praveen Kumar
3. S.Viswanathan

... Petitioners/A1 to A3

.Vs.

K.Mohan Raj

... Respondent/Complainant

PRAYER:-

Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records and quash the Charge Sheet in C.C.No.31/2016 pending on the file of the Judicial Magistrate No.III, Coimbatore.

For Petitioners .. Mr.M.Guruprasad

For Respondent .. Mr.R.Aravind Raj

ORDER

This Criminal Original Petition has been filed under Section 482 of Cr.P.C, seeking to quash further proceedings in C.C.No.31 of 2016 now pending on the file of the Judicial Magistrate No.III, Coimbatore. The petitioners are A1, A2 and A3 in the said calendar case. A complaint under Section 200 Cr.P.C had been given by the respondent against the petitioners for alleged offences under Sections 406 and 420 IPC.

2. The respondent alleged that he was one of the Directors of Agaram Fincorp Private Limited which was incorporated on 12.11.2014 under the Companies Act. He was also a partner in Krishna Academy and in Agaram Chit Funds which were both

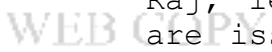


registered on 20.02.2015. He also stated that he was one of the Directors in Agaram Retail Stores Private Limited, Agaram Health Care Private Limited and Agaram Infra Development Private Limited which were all incorporated on 02.03.2015. He claimed that he had invested Rs.1,00,000/- with Agaram Infra Development Private Limited and Rs.2,50,000/- in Agaram Retail Stores Private Limited and had transferred a sum of Rs.32,00,000/- from his account to Agaram Fincorp Limited. He claimed that the companies did not commence any business activity and his Digital Signature was misused. He also alleged transfer of funds to Krishna Academy, a partnership firm of the 1st petitioner. The funds were later transferred to another firm of the 1st petitioner. It was under these circumstances that he had given a private complaint before the jurisdictional Magistrate which had been taken cognizance as C.C.No.31 of 2016 against the petitioners herein for offence under Sections 406 and 420 IPC. Seeking to quash the said calendar case, the accused had filed the present petition under Section 482 of Cr.P.C.

3. Heard arguments advanced by Mr.M.Guruprasad, learned counsel who appeared on behalf of the counsel for the petitioners and Mr.R.Aravind Raj, learned counsel for the respondent.

4. Mr.M.Guruprasad, learned counsel pointed out that quite apart from lodging the complaint under Section 200 Cr.P.C before the jurisdictional Magistrate, the respondents had also given a complaint before the Registrar of Companies, alleging the same offence against the petitioners herein. The learned counsel also pointed out that the amount of Rs.32,00,000/- which the respondent claims he had transferred from his account to Agaram Fincorp Limited had actually been originally transferred to his account from the account of Krishna Academy by way of two NEFT transfers on 16.04.2015 of Rs.9,00,000/- each and on 17.04.2015 of another sum of Rs.14,00,000/-. The total amount of Rs.32,00,000/- had then been re-transferred to Agaram Fincorp Private Limited by the respondent by cheque No.125214 dated 18.04.2015. As a matter of fact, the firm had also suffered service tax at 12.36% and also consolidated charges owing to this transfer.

5. It was therefore pointed out by Mr.M.Guruprasad, learned counsel that the contention of the respondent that he had transferred money from his account is totally false. It is also pointed by Mr.M.Guruprasad, learned counsel, that the respondent had issued a receipt on 10.07.2015 for having received a sum of Rs.2,50,000/- towards full and final consideration of sale of 2,500 equity shares of Rs.100/- each of Agaram Retail Stores Private Limited. It was therefore stated that respondent had not been cheated and his amount had not been misappropriated by the



6. This contention has been strongly refuted by Mr.R.Aravind Raj, learned counsel for the respondent who pointed that these are issues on facts and it is only appropriate that the trial Court examines them on the basis of the evidence adduced. The learned counsel urged that the petition should be dismissed.

8. The respondent had given a private complaint under Section 200 Cr.P.C primarily alleging that he had transferred an amount of Rs.32,00,000/- to Agaram Fincrop Private Limited. The statement of accounts enclosed along with the petition, however, shows that to the very same account of the respondent, there has been a transfer of Rs.9,00,000/- through NEFT/753736179/Krishna Academy on 16.04.2015 and transfer of another sum of Rs.9,00,000/- through NEFT/753737714/Krishna Academy on 16.04.2015 and another sum of Rs.14,00,000/- through NEFT/754041732/Krishna Academy on 17.04.2015. Thus a total of Rs.32,00,000/- had been transferred to the account of the respondent from the account of Krishna Academy. On the next day, 18.04.2015, a cheque had been issued in favour of Agaram Fincrop Private Limited. Thus there is a credit of Rs.32,00,000/- and there is a debit of Rs.32,00,000/-.

10. When this is the factual situation, directing the petitioners to undergo the ordeal of trial would only be an act of oppression. Even before the trial Court, the documents, relied on now, alone will have to be presented. The statement of accounts very clearly reflects both credit and debit entries for Rs.32,00,000/-.

12. It is also seen that the respondent had also received a sum of Rs.2,50,000/- towards full and final consideration for sale of 2,500 equity shares of Rs.100/- each of Agaram Retail



Stores Private Limited. It is thus seen that the relationship between the parties stood frustrated and it would only be in their own interest that they move forward with their respective business ventures, rather than agitating over this issue in the Court of law.

13. In view of the above reasons, this Criminal Original Petition is allowed and the calendar case in C.C.No.31 of 2016 now pending on the file of the learned Judicial Magistrate No.III, Coimbatore is quashed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

The Judicial Magistrate No.III,
Coimbatore.

+1cc to Mr.M.Guruprasad, Advocate, S.R.No.53971

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JP-II(CO)
PBS/01/12/2021