

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.09.2021

PRONOUNCED ON : 04.10.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.10434 of 2021 and

Cr1.M.P.No.6289 of 2021

G.Manikandan ... Petitioner / Accused

Vs.

1.State rep by,

Inspector of Police,

T2 Ambattur Estate Police Station,

Ambit Road, Ambattur Industrial Estate,

Chennai-600 058.

(Crime No.121 of 2021). .. 1st Respondent / Complainant

2.Hari Chandran ... 2nd Respondent/ Defacto-Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for records and quash the First Information Report in Crime No.121 of 2021 on the file of Inspector of Police, T2 Ambattur Estate Police Station, Ambattur, Chennai as against the petitioner.

For Petitioner : Mr.Sunder Mohan

For R1 : Mr.A.Damodaran,
Government Advocate (Cr1. Side)

For R2 : Mr.R.Sathish Kumar,
Legal Aid Counsel

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.121 of 2021 on the file of the 1st respondent Police.

2.The gist of the case is that the 2nd respondent, Managing Director of M/s.HP Valves and Fitting India Private Limited, Ambattur Estate, Chennai lodged a complaint before the 1st respondent Police against the petitioner that the petitioner was working as Technical Manager in the said company from 18.01.2006 to 28.04.2018. On 28.04.2013, the petitioner resigned his job and left the company. Thereafter, the petitioner acted against the interest of the 2nd respondent's company. Without permission of the 2nd respondent, the petitioner copied the business secrecy of the 2nd respondent's company, such as material test vehicle, test certificate, measuring instruments, GA drawing 85, price list, catalogues, customer and supplier address details, quotation and invoice files, ISO documents and formats in pen drive and hard disk and started a proprietorship firm in the name of M/s.Win Process Control Engineering and made similar products of the 2nd respondent's company and supplied to the customers of the 2nd respondent at a lesser price. It is alleged that the petitioner was carrying on the business at No.14/41, Kavarai Street, Athipet, Ambattur, Chennai without obtaining auto CAD license for drawing. Further, the petitioner copied the particulars of the 2nd respondent's company through M/s.Lakshmi Industries and used a tiny shed, in Ambattur Industrial Estate, Chennai and was manufacturing valves using the drawings of the 2nd respondent's company and thereby, caused loss for the past three years. Hence, an FIR in Crime No.121 of 2021 was registered on 27.04.2021, for offence under Sections 406, 465, 468, 473, 471 & 420 IPC and Section 66C of the Information Technology Act, 2000.

3.The learned counsel for the petitioner submitted that initially, the petitioner joined the 2nd respondent company during the month of June 2006 and thereafter, resigned his job during the month of June 2018. In his resignation letter, dated 10.04.2018, the petitioner clearly mentioned that he gained lot of knowledge and experience from the company and due to his financial commitments for his son's education and housing loan, he had to resign his job. Further, he had requested the payment of balance salary, provident fund, gratuity, leave salary, bonus and other entitlements. On 10.04.2018, the petitioner had also sent e-mail to the 2nd respondent requesting for the said entitlements. On 24.04.2018, the petitioner clarified about the doubts raised by the 2nd respondent with regard to the documents and drawings etc. The 2nd respondent accepted the resignation

letter of the petitioner and relieved him from the organization and wished him all the best in his future endeavours. Thereafter, the petitioner started his own proprietorship company in the name of M/s.Win Process Control Engineering and slowly gained foothold in the business. Before starting the company, the petitioner obtained export and import license registered with Form GST REG-06. The 2nd respondent unable to tolerate the growth of the petitioner to somehow collapse the petitioner's business, lodged a false complaint to the 1st respondent. The petitioner was made to wait in the Police Station for whole day and thereafter, he was arrested and was produced before the learned Magistrate for remand. The remanding Magistrate refused to accept the remand finding that no valuation of patent/copy right of the 2nd respondent is used by the petitioner and there is nothing to show that the petitioner had committed theft of valuables of the 2nd respondent.

4.The learned counsel for the petitioner further submitted that the petitioner started his own individual proprietorship business and did not commit any offence as alleged by the prosecution. Whatever the petitioner produced are available in the internet and nothing secret. No exclusive properties/documents were taken by the petitioner from the 2nd respondent's company. The petitioner by using his knowledge and experience, was running the business for these years. There is nothing stated in the appointment order or in relieving order prohibiting the petitioner not to involve in similar nature of work as of 2nd respondent. Further, the FIR is filed to spite venom and wreak vengeance on the petitioner, since the petitioner slowly became successful in his business. In this case, there is nothing to show that the petitioner caused any wrongful loss to the 2nd respondent's company and thereby, made any wrongful gain. In the complaint, the ingredients of offence of forgery and cheating is not available. The petitioner is running his business by using his knowledge and experience and did not copy any particulars or other materials of the 2nd respondent's company.

5.The learned Government Advocate (Cr1. Side) appearing on behalf of the 1st respondent Police submitted that the main allegation against the petitioner is that he had taken away the particulars which includes pen drive, hard disk, material test certificate, measuring instruments, catalogues, price list,

customers details etc., from the 2nd respondent's company. Therefore, the business of the 2nd respondent got affected and he lodged a complaint on 27.04.2021 to the 1st respondent Police and the same was registered in Crime No.121 of 2021 for offence under Sections 406, 465, 468, 473, 471 and 420 of IPC r/w Section 66C of the Information Technology Act, 2000. During investigation, sufficient materials collected and the investigation is in progress. The learned Government Advocate fairly submitted that there are no documents to show that the petitioner has taken away the exclusive patent/copy right from the 2nd respondent's company. Hence, it would not be appropriate that the investigation is allowed to be continued.

6.The learned counsel for the 2nd respondent submitted that the petitioner had stolen the valuable documents of the 2nd respondent's company namely material test certificate, measuring instruments, catalogues, price list, customers details and also vital information in pen drive and hard disk. He further submitted that petitioner had gained knowledge through the stolen articles from the 2nd respondent's company. Using the price catalogues as well as customer list, the petitioner approached the customers of the 2nd respondent and executed the work for lesser price than the 2nd respondent and thereby taking away the entire business of the 2nd respondent for the past three years and caused loss to the 2nd respondent's company. Further, the petitioner did not get the auto CAD license for the drawings and he was running the business using the drawings of the 2nd respondent. Hence, it would be appropriate that the investigation to be allowed to continue and not to be short circuited by way of quashing the FIR.

7.This Court considered the rival submissions and perused the materials available on record.

8.It is not in dispute that the petitioner was employed in the 2nd respondent's company as Technical Manager from 18.01.2006 to 20.04.2018 for nearly 12 years. The petitioner resigned his job during the month of June 2018, which was accepted by the 2nd respondent and the relieving order to that effect has been issued on 28.04.2018. In the appointment order or relieving order, there is no mention that a person who joined, acquired knowledge from the 2nd respondent is prohibited to use the same on behalf of himself or for others against the 2nd

respondent. Further, there is no material to show that the the petitioner had taken away the copyright of the 2nd respondent. The designs are available in the internet and specification are given by the customers as per their requirement. The petitioner for the past 12 years had been working as Technical Manager in the 2nd respondent's company and gained experience in auto CAD and designing valves. It is natural that when a person starts his own business for his survival, he would use his experience which he gained. Every entrepreneur starts his carrier in this way, which cannot be termed and made as criminal offence. The ISO certificate particulars tag are available in the customers catalogues. The persons who are in need of valves are known to everyone, who are in that field. Thus, terming the price list and customer catalogues as exclusive document of the 2nd respondent are not sustainable.

9.Considering all the above aspects, the learned remanding Magistrate refused to remand the petitioner and passed a well reasoned order, dated 30.04.2021. Finding that there is no exclusive copy right and prohibitory clause in the appointment and relieving order, the 2nd respondent cannot lodge a complaint against the petitioner. The petitioner registered his company namely M/s.Win Process Control Engineering in GST REG-06 and also obtained Udyog Aadhar Registration Certificate and had been carrying on the business in the rightful manner. The 2nd respondent developed hatred on the growth of the petitioner, since the petitioner had become successful in his business. After registration of FIR against the petitioner, the 2nd respondent sent communication to the customers of the petitioner that the petitioner's company doing unethical and fraudulent business and criminal breach of trust against the 2nd respondent's company, which clearly proves that the complaint is instituted with the ulterior motive of vengeance due to private and personal grudge. Powers under Section 482 of CrPC. ought to be exercised to prevent abuse of the process of Court or to secure the ends of justice. Thus, the FIR in Crime No.121 of 2021 on the file of the 1st respondent Police registered against the petitioner is liable to be quashed and, is hereby quashed.

10.This Criminal Original Petition is, accordingly, allowed. Consequently, the connected miscellaneous petition is closed.

11.This Court appreciates R.Sathish Kumar, Legal Aid Counsel for the 2nd respondent for meticulous preparation and presentation of the case.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,
T2 Ambattur Estate Police Station,
Ambit Road, Ambattur Industrial Estate,
Chennai-600 058.

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.Sunder Mohan, Advocate, S.R.No.51380

Cr1.O.P.No.10434 of 2021

MG(CO)
SB(22/10/2021)