



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.11094 of 2021
and Crl.M.P.No.6529 of 2021

P.Murali

...Petitioner/1st Accused

Versus

1. The State

Rep. by the Inspector of Police,
Central Crime Branch, Team - XXI,
Vepery, Chennai - 600 003.
(Crime No.28 of 2020).

2.A.K.Sasikumar

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in FIR Crime No.28 of 2020 on the file of the 1st respondent police and quash the same.

For Petitioner : Mr.N.Ramakrishnan
for M/s.Waraon and Sai Rams

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

O R D E R

This Criminal Original Petition is filed to call for the records in FIR Crime No.28 of 2020 on the file of the 1st respondent police and quash the same.

2.The contention of the petitioner is that the defacto complainant/second respondent has projected the case as the Deed of Codicil dated 04.02.2019 was not executed by him and that the same was forged and fabricated, by using the same the petitioner has been independently operating the accounts of the Partnership firm from February 2019 without the knowledge and consent of the defacto complainant/second respondent and has caused monetary loss for the business as well as the defacto complainant/second respondent. The said allegation made by the defacto complainant/second respondent is nothing but an afterthought and



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a pretext to evade his liability as a partner of the Partnership Firm. He further contented that it is only a business transaction and it can prove by documents and the petitioner and the other accused have not committed any misappropriation or cheating.

3. In this case, the learned Government Advocate [Cr1. Side] submitted that the petitioner along with the other accused i.e. his son who are taking care of the business had given a wrong premise and introduced him as a reputed business man in the car sales and service. The petitioner and the defacto complainant started their business in the name and style of M/s. Phoenix Motors during October, 2018 and both the partners have jointly availed the loan facilities from ICICI Bank Limited, Ambattur Branch, Chennai for their business purposes. Due to the worst management, they incurred a loss in the business and thereby the loan obtained from ICICI Bank Limited, Ambattur Branch, Chennai was followed and thereafter the bank officials had secured the properties given as security by the petitioner as well as the defacto complainant and got attached. The petitioner had conveniently taken away the loan and discharge the property. In all the property the defacto complainant's property would be attached. The statement of witnesses and the documents collected have clearly confirmed the pledge by the petitioner. Hence he strongly opposed for quashing of the Crime N.28 of 2020.

4. Further submitted that the petitioner issued legal notice dated 23.09.2020 invoking the Arbitration agreement contained in the partnership deed and sought appointment of an arbitrator to adjudicate the disputes hence, the dispute is only civil in nature.

5. Considering the submissions, it is seen that the defacto complainant and the petitioner were initially partner and during their business on the understanding, faith and belief both of them have obtained loan by way of pledging the property and thereafter the business was going on. Later the defacto complainant found that without his knowledge and consent the entire business was commenced by the petitioner with the aid of the other accused. When the defacto complainant question the same he was threatened by the petitioner.

6. The role of the bank officials have to be investigated. Further it is seen that the investigation of this case is almost over, Charge sheet is to be filed shortly. It is open for the petitioner to approach the respondent police and give his explanation with materials. Further the petitioner also undertakes that he will not proceed against the prosecution agency in any manner for the action taken.



7. Accordingly, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
Central Crime Branch, Team - XXI,
Vepery, Chennai - 600 003.

2. The Public Prosecutor,
High Court, Madras.

+2 Ccs to M/s.Waraon and Sai Rams, Advocate, Sr.No. 40985.

CRL.O.P.No.11094 of 2021

PA(CO)
LS(24/09/2021)