

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.09.2020
PRONOUNCED ON : 10.03.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.8838 of 2014
and
M.P.No.1 of 2014

D.Hansaraj Saxena ... Petitioner / A1

Vs.

1.State through rep by,
The Inspector of Police,
Police Research Centre,
CBCID, Chennai - 600 016 ... 1st Respondent / Complainant
(Crime No.2/2011)

2.Chella Manmohan 2nd Respondent / Defacto
Complainant

COMMON: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.956 of 2013, now pending on the file of the learned XI Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioner : Mr.P.Ganesh Kumar
For Mr.S.Shrenik Raj

For R1 : Mr.C.Iyyappa Raj,
Additional Public Prosecutor
For R2 : Mr.G.Thyagarajan

O R D E R

This Criminal Original Petition has been filed praying to quash the proceedings in C.C.No.956 of 2013, pending on the file of the learned XI Metropolitan Magistrate, Saidapet, Chennai.

2. The gist of the case is as follows:

(i) One Chella Manmohan, Managing Director of 'Pinnacle Pictures Pvt., Limited', Hyderabad, preferred a complaint against W.Hansraj Saxena, Chief Operating Officer of Sun Pictures Ltd. The complainant was a Producer-cum-Director of

Telugu Film 'Police Police'. During September, 2008, one Ravi of Dhivya Pictures and Mohammed Saadique, proprietor of M/s Green Apple Productions, met the complainant and shown interest for Tamil Rights of the said film. The complainant agreed to give Tamil rights of the film 'Police Police' into 'Kutra Pirivu' in Tamil Movie for Rs.2.1 Crores and received Rs.10,00,000/- as advance from Ravi of Dhivya Pictures and signed a letter of arrangements addressed to Mrs.Uma Ravi of M/s.Dhivya Pictures. But before 5 days of movie release in Andhra Pradesh, Saxena invited the complainant to Chennai and forced him to inform the press that Sun Pictures took over the Tamil rights of the movie and hence, the Telugu Movie release has been postponed for simultaneous release and further refused to pay the balance amount and the petitioner criminally intimidated the defacto complainant. Under these background, the complainant sold the Tamil movie rights on 16.07.2009, to the Dhivya Pictures of Uma Ravi with huge loss.

(ii) Further, the defacto complainant was invited by the petitioner and another accused on 27.03.2009, to come for negotiation and the defacto complainant had come to Chennai, Cosmopolitan Club with his friend Sreedhar / L.W.2, at about 7.00 p.m., and met the petitioner and other accused and discussed about the movie. At that time, the petitioner demanded the defacto complainant to repay the advance amount of Rs.20,00,000/- paid for the movie 'Kutrapirivu', since the petitioner was not interested to purchase the movie and during the time there was heated arguments, both the petitioners and the other accused raised their voice using filthy and abusive language, threatened the defacto complainant and pulled the defacto complainant by his shirt and pushed him down and threatened him of his life. Hence, the defacto complainant had lodged the complaint on 11.10.2011. After investigation, charge sheet came to be filed in this case in C.C.No.956 of 2013, against the petitioner and other accused, for the offence under Sections 294(b) and 506(ii) IPC.

3. The learned counsel for the petitioner submitted that the transaction is purely a business dealing and there is no incriminating material for breach of trust and the allegations found in the complaint were not substantiated. The statements alleged to have been recorded were found to be self contrary of the original complaint of the defacto complainant. The petitioner submitted that though the offence is said to have taken place on 24.12.2008 and 27.08.2009, the complaint in this case came to be registered only on 11.10.2011 after a delay of nearly 2 years and no reason has been given for the delay. Further, the FIR in this case was registered for the offence under Sections 420, 406, 294(b), 386 and 506(ii) of IPC., after investigation found that the major part of the complaint and

allegations to be false and charge sheet was filed for the offence under Sections 506(ii) and 294(b) IPC. In this case, it is clear that there was a business transaction wherein the other accused had agreed to purchase the rights of the movie and price was fixed, latter lesser price was paid, which caused loss to the defacto complainant. From the investigation it is seen that the defacto complainant had given an exaggerated version and there is no materials and documents produced to support his case, on the other hand it was found that the defacto complainant's contention is not reliable and proved. In this case, after investigation final report has been filed citing L.Ws.1 to 11 as witnesses and annexing documents. Mostly, the documents are with regard to the purchase of rights of the movie and only one letter from the Honorary Secretary, Cosmopolitan Club, Chennai, dated 13.02.2011 is relevant pertaining to the charge. From this letter also, there is nothing to implicate the petitioner. Further, the statements of the witnesses themselves were found to be not corroborative and apparently inconsistent and the prosecution cannot develop the case beyond the principle of law. The entire charge sheet is an abuse of process of law and the petitioner shall not undergo the ordeal of a full fledged trial.

4. The sum and substance of the learned counsel appearing for the defacto complainant is that the accused created huge loss to the defacto complainant and criminally intimidated him.

5. I have heard rival submissions advanced by learned counsel for petitioner, learned Additional Public Prosecutor for the State and the learned counsels appearing for the accused person at length, perused the record carefully and gave my thoughtful consideration to their contentions.

6. The defacto complainant is L.W.1; L.W.2 is his friend and L.W.s.6, 7, and 8 are the bearers and Vice President of Cosmopolitan Club, to speak about the incident on 27.03.2009. The uncontroverted statements of these witnesses also does not make out the case against the petitioner. The defacto complainant submitted that the petitioner had lodged a complaint to the Commissioner of Police on 11.10.2011, as the defacto complainant hails from the Hyderabad. Further, the petitioner, being an Chief Operating Officer of Sun Pictures, which is close to the Ruling Establishment at that point of time and the petitioner fearing for his life was unable to visit Chennai and lodge the complaint. After gaining confidence on safety of his life, the defacto complainant had lodged the complaint.

7. The petitioner called the defacto complainant to Chennai and there, the petitioner along with other accused had agreed to purchase the movie and also offered to pay 2.10 Crores for the right of the movie and the letter of arrangement was made on 25.12.2008. Thereafter, using his clout threatened the defacto complainant and forced him to enter into the agreement on 12.09.2009, for Rs.80,00,000/-. This amount was also not paid and in fact, in a scrumptious manner had obtained a letter to the lab, taken the print of the movie, sold overseas rights and the defacto complainant was made to suffer huge loss, even the release date of the movie, which was earlier planned was forced to defer ultimately, making the defacto complainant to sustain huge loss and the defacto complainant now left in lurch. The investigating Officer for obvious reasons had dropped many of the charges in the complaint and filed the final report for the offence under Sections 294(b) and 506(ii) of IPC.,

8. The learned Additional Public Prosecutor filed a counter and submitted that in cine industries, there is no proper maintaining of documents and accounts. Though the defacto complainant had produced letter of arrangements dated 28.12.2018, this letter is only a photostat copy and he was unable to produce the original. Based on the agreement, an investigation was conducted, witnesses were examined and it was found that both the petitioner and the defacto complainant had a tactful understanding and recorded some and left some and the witnesses have clearly stated about the payments made to the petitioner or his associates as well as the defacto complainant.

9. In continuation to the business transaction, on 27.03.2009, the defato complainant was called to the Cosmopolitan Club where the first petitioner, who was initially an Executive Member and latter on Vice President of the Club, taken them to the Lawn of the club and the other accused was present and the defacto complainant and his friend Sreedhar - L.W.2 had come there where there was heated exchange of words and finally the petitioner as well as the other accused pulled the defacto complainant's shirt, pushed him down and used abusive words and threatened them to leave Chennai immediately otherwise would be done away.

10. During investigation, finding the complaint with regard to business dealings not supported with materials, those sections were dropped and on the statements of L.W.1, L.W.2, L.W.6, L.W.7 and L.W.8 it is confirmed that on 27.03.2009, the petitioner had visited the Club wherein the defacto complainant was abused and assaulted. In this case, final report has been filed and taken on file as C.C.No.956 of 2013 and the trial is pending. Further, the petitioner without filing a discharge

petition had straightaway filed the present quash petition. Hence, objected for quashing of the charge sheet.

11. Considering the rival submissions and on perusal of the materials it is seen that the petitioner was Chief Operating Officer of Sun Pictures. He along with one Ravi of Divya Pictures and Mohamed Saddique @ Saadique Proprietor of M/s.Green Apple Productions, Chennai / A2 had business dealing with the defacto complainant for the movie 'Kutrapirivu'. Initially, there was letter of arrangement, and latter, an agreement was entered into and finally, the movie was sold to Umaravi of Divya Pictures on 12.11.2009. Earlier, the defacto complainant received Rs.10,00,000/- from Ravi of Divya Pictures and no agreement was signed for the same. The movie latter was sold to Redsquare and in turn, it was sold to Sun TV Net Work. Thus, it is purely a commercial transaction. In this transaction, there have been some misunderstanding between the defacto complainant and the petitioner and other accused. During investigation it was found that major portion of the defacto complainant's complaint is not proved with any materials, on the other hand, the statements of witnesses, collected would prove that the allegations are not sustainable hence, dropped. The only overt act is that during the business dealings on 27.03.2009, the defacto complainant was called for a negotiation to the Cosmopolitan Club and there he was abused, assaulted, threatened and pushed out. From the statements of L.W.s 6 & 7, who are the bearers, it is seen that on 27.03.2009, they attended the duty at Cosmopolitan Club. Though they state that they have seen the petitioner and other accused in the lawns, nothing more, there is nothing to show that on that day they were in duty in the specific spot. L.W.8, the Honorary Secretary of the Club state that the petitioner had not visited the club and no entry for the same is made in the registers, which is compulsory. It is to be seen that the petitioner is a known person in the Club, he was an Executive Member and also Vice President. Hence, he without making entry by using the smart card as well as signing the register cannot enter the Club. It is to be seen that the alleged occurrence said to have taken place on 23.02.2009, but the statements from the witnesses have been recorded only on 05.06.2012, nearly 3 years thereafter, and no reasons has been given for the inordinate delay in recording the statement. Further, from the statement of witnesses it is seen that the statements are bald in nature and not specific. The letter of the Club dated 13.02.2012 is specific that there is nothing in record for usage of club or for entry of A1 to the Club. Had any untoward incident taken place in the Club, a complaint would be lodged by the Club, to the police and there would be recordings of the same in the Registers maintained in the Club. But, there is nothing in the club, records to show that the petitioner had entered the club and any untoward

incident had taken place coupled with the fact that there have been inordinate delay in registration of the case and recording of the statements. The threat is on empty threat, not followed with any action. In view of the foregoing reasons, no offence is made out.

12. In the present Petition, though A2 has not challenged his case, this Court is inclined to quash the proceedings as against A2 also, who is similarly placed as that of the petitioner/A1.

13. In the result, this Criminal Original Petition stands allowed and the proceedings in C.C.No.956 of 2013, now pending on the file of the learned XI Metropolitan Magistrate, Saidapet, Chennai, is hereby quashed, as against the Petitioner / A1 as well A2. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

MPK

To

1.The XI Metropolitan Magistrate,
Saidapet, Chennai

2.The Inspector of Police,
Police Research Centre,
CBCID, Chennai - 600 016

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Shrenik Raj, Advocate Sr.NO.15214

NR(CO)
NR 16/04/2021

ORDER IN
Cr1.O.P.No.8838 of 2014