IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2021

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL.R.C.NO.1207 OF 2014

M/s. Mediaone Global Entertainment Ltd.,
Rep. By its Managing Director,
J.Muratu Manohar ...Petitioner / 1st Accused

Versus

1.K.J.Saravanan ...1st Respondent / Complainant

2.The Secretary / Commissioner
of Commercial Taxes
Ezhilagam, Chepauk,
Chennai - 600005.

3.The Principal Secretary to Government,
Commercial Taxes and Registration
(C-1 Department),
Government of Tamil Nadu,
Fort St.George,
Chennai - 600009. ...Respondents 2 & 3 / Accused 2 & 3

Prayer : Criminal Revision Case is filed under Section 397 and 401 of Cr.P.C., to set aside the order passed by the XIII Metropolitan Magistrate Court, Egmore, Chennai - 600008 in Criminal M.P.No.2291 of 2014, dated 23.09.2014.

For Petitioner : Mr.T.T.Ravichandran

For R1 : No Appearance

For R2 and R3 : Mr.L.Baskaran
Government Advocate (Criminal Side)

ORDER

This Criminal Case is filed by the petitioner against the order of the learned XIII Metropolitan Magistrate, Egmore, Chennai in Crl.M.P.No.2291 of 2014 in and by which the learned Magistrate had passed an order, thereby, forwarding the complaint filed by the first respondent herein to the Inspector of Police, D1 Triplicane Police Station (Crime) to conduct a preliminary enquiry and to ascertain whether the information reveals any cognizable offence based on the complaint, dated 12.08.2014 given by the first respondent and if any cognizable offence is made out, he has to register a case, investigate the same and file final report.

2. Mr.T.T.Ravichandran, learned Counsel appearing on behalf of the petitioner would submit that on perusal of the complaint, it would be very clear that there is an exemption order under the Tamil Nadu Entertainment Tax Act, 1939 and the authorities have given exemption as per the order. Without questioning the order passed by the tax authorities granting exemption, the criminal complaint is filed, as if the exemption, granted to the movie is erroneous, which on the face of it is an abuse of process of law. He would further submit that the complaint is filed against the petitioner, which is the company which released movie and showing the Secretary/Commissioner of Commercial Taxes and Principal Secretary to Government, Commercial Taxes, by their designation, as second and third accused without even naming the persons. That would demonstrate that this is a case, which deserves to be interfered by this Court, at this stage itself.

3. However, Mr.L.Baskaran, learned Government Advocate (Criminal Side), appearing on behalf of the prosecution would submit that the Criminal Revision is premature in nature as the learned Magistrate has only directed the jurisdictional Police to conduct preliminary enquiry and ascertain whether the information reveals any cognizable offence or not. I have perused the materials on record. Mrs.P.Kalaiselvi, Inspector of Police, (D1) Crime, Triplicane P.S (Mobile No.9498131361) is also present.

4. I am of the view that since the order of the learned Magistrate is only forwarding the complaint under Section 156(3) of Cr.P.C., that too without any positive direction and only to conduct a preliminary enquiry to ascertain whether or not any offence is made out, this Revision is not maintainable.

5. However, the contention of the learned Counsel for the petitioner is that when there is already an order passed by way of GO.Ms.No.89, Commercial Taxes and Registration (C1) Department, dated 21.07.2011, when the Government has exempted the payment of entertainment tax, without the said G.O being set aside in the manner known to law, straightaway the complainant has approached the learned Magistrate, by way of this complaint appears to be meritorious.

6. Therefore, the petitioner is directed to submit all the materials, which are relevant to the preliminary enquiry to the

Inspector of Police, Triplicane Police Station. The petitioner can place all the documents i.e., above G.O exemption and all their other submissions, including that the complaint is abuse of process of law, before the jurisdictional Police. The investigating officer shall take into account all the contentions raised by the petitioner herein and the documents which may be furnished by them, even during the conduct of preliminary enquiry and take a decision in accordance with law.

7. With the above said directions, this Criminal Revision Case is disposed off. Consequently, M.P.No.1 of 2014 is closed.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

grs

To

1.The XIII Metropolitan Magistrate Court,
Egmore, Chennai - 600008.

2.The Inspector of Police,
Triplicane Police Station,
Chennai.

3.The Secretary/Commissioner of Commercial Taxes
Ezhilagam, Chepauk,
Chennai - 600005.

4.The Principal Secretary to Government
Commercial Taxes and Registration
(C-1 Department)
Government of Tamil Nadu,
Fort St.George, Chennai - 600009.

5.The Public Prosecutor,
High Court of Madras.

Copy To

The Section Officer,
Criminal Section,
High Court, Madrzas.

Crl.R.C.No.1207 of 2014

RSI(CO)
RVM(11/01/2022)