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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.15496 OF 2021

K.Mahesh, M/53,
S/o Kannivel,
Director,
Gambion Electronics Pvt. Ltd.,
No.12, Type - 2, Dr.Vikramsarabhai Interionic Estate,
Thiruvannamiyur,
Chennai - 600 042. ... Petitioner/Complainant

Versus

Inspector of Police,
J-13 Taramani Police Station,
Taramani, Chennai. ...Respondent

PRAYER:

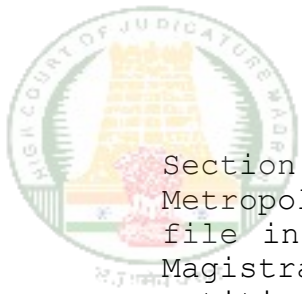
Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set-aside the order dated 06.08.2021 passed in Crl.M.P.No.55 of 2021 by the Learned XVIII Metropolitan Magistrate at Saidapet and direct the respondent herein to register the complaint dated 24.04.2021 lodged by the petitioner pending on the file of the respondent police in CSR No.185 of 2021.

For Petitioner : M/s.R.Saravanakumar
For Respondent : Mr.A.Damodaran
Government Advocate (Crl Side)
For Intervener : Mr. N. Rajan,
for Mr.Rajan Isaac

ORDER

This Criminal Original petition has been filed to register the complaint of the petitioner dated 24.04.2021.

2. The learned counsel for the petitioner submitted that the petitioner, who is the Director of the Gambion Electronics Pvt. Ltd., had lodged a complaint against one Rajan Isaac under



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Section 156(3) r/w Section 200 CRPC before the XVIII Metropolitan Magistrate, Saidapet, Chennai, which was taken on file in CrI.M.P.No.55 of 2021. The learned XVIII Metropolitan Magistrate, by an order dated 06.08.2021, dismissed the said petition observing that no offence is made out. Against which, the present petition.

3. The gist of the complaint of the petitioner is that the petitioner is one of the Directors in the Gampion Electronic Private Limited situated at Dr.Vikram Sarabhai Electronics Estate and there are 5 other Directors apart from the petitioner. One Rajan Isaac is said to have misappropriated the company's fund of Rupees One Crore and he has also taken away the original title deeds of the company's property. Hence, other Directors had passed resolution on 05.11.2015 and removed the said Rajan Issac from the Directorship. Thereafter, the petitioner had lodged a complaint to J13, Tharamani Police Station and CSR 46/2016 assigned, in which, Mr.Rajan Issac was called for enquiry. At the time of enquiry, he submitted that the original documents was not with him. But, on the contrary, in a civil suit in O.S.No.950 of 201, which was filed by the said Rajan Isaac, he admitted that the original documents of the said property are with him. Hence, complaint has been lodged. But, without considering the same, the lower Court dismissed the complaint of the petitioner. Hence, the present petition.

4. Mr. N.Rajan, (Enrollment No.462/1975) learned counsel appearing for Mr.Rajan Issac, objected for maintaining the above petition for the reason that the dispute is among the Directors of the Gambion Electronics Private Limited and earlier the said Rajan Isaac filed a suit in O.S.No.4847 of 2015 before the XV Assistant City Civil Court, Chennai, which was later dismissed as withdrawn. Later, he had filed a suit in O.S. No.950 of 2016 and the same was dismissed, on merits, on 30.01.2020 by the learned XV Assistant Judge, City Civil Court, Chennai. The Certified copy of the said judgment has been received by the said Rajan Isaac, recently and steps have been taken to file an appeal. He would further submit that the main crux of the issue is with regard to removal of Directorship, and holding of the property. Whether it is rightful or by deceitful means, the petitioner should approach the Additional chief Metropolitan Magistrate for Economic Offences, which is specifically constituted for offences, committed by the Directors, violating Companies Act. In this case, admittedly, the dispute is between the Directors.

5. The learned Government Advocate (crl. side) would submit that earlier CSR assigned on the complaint of the petitioner and the same was closed. Thereafter, CSR No.185 of 2021 assigned on the complaint dated 24.04.2021 and the same is pending.



6. This Court considered the submissions and perused the materials available on records carefully.

7. Considering the submissions and from the perusal of the materials, it is seen that the petitioner had already approached the respondent police, CSR assigned and the same was closed. Thereafter, he had filed a private complaint before the Magistrate to be forwarded under Section 156(3) of Cr.P.C., which was also dismissed. In view of the admitted fact that the petitioner as well as the said Rajan Isaac are the Directors of Gambion Electronics Private Limited and it is a dispute within the Directors, it would be appropriate to direct the petitioner to approach the Economic Offence Court seeking Redressal under Companies Act.

8. With the above observations and directions, this Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Inspector of Police,
J-13 Taramani Police Station,
Taramani, Chennai.
2. The XVIII Metropolitan Magistrate, Saidapet.
3. -Do- Thro The Chief Metropolitan Magistrate,
Egmore, Chennai.
4. XV Assistant Judge,
City Civil Court, Chennai.
5. -Do- Thro The Principal Judge,
City Civil Court, Chennai.
6. The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.15496 of 2021

SR II (CO)
PM/12/10/2021