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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2021

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

WP No.21043 of 2021

&

WMP No.22294 of 2021

M/s. S.V. Medias Solutions,
Rep by Mr.Palani Ganesan,
No.114, 1st floor, B-Block,
Meena Kampala Aracade,
Pondy Bazaar, T.Nagar,
Chennai - 600 017.

...Petitioner

Vs

1. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore,
Chennai - 600004.
2. The Commissioner of Police,
No.132, EVK Sampath Road,
Vepery, Chennai 600 007.
3. The Deputy Commissioner of Police,
No.132, EVK Sampath Road,
Vepery, Chennai 600 007.
4. The Inspector of Police,
District Crime Branch EDF-II
Team-III, No.132, EVK Sampath Road,
Vepery, Chennai 600 007.
5. Creative 54 Events & Advertising,
Rep by Ganeshwaran and Sumanth Vaddempudi,
No 102, Sathyabama Complex,
Opp.Saibaba Temple,
KPHB Colony, Hyderabad,
Telegana.
6. Mr.Ganeshwaran
7. Mr.Sumanth Vaddempudi



8. Dengeti Karthik

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified Mandamus, calling for the records of the 4th Respondent herein dated 19.07.2021 and made in his C.No.59/DC-CCB-II/COP/Whatsapp/2021 and quash the same and further direct the Commissioner of Police to constitute a special team to investigate the petitioner's complaint dated 17.04.2021 submitted before the Commissioner of Police, Chennai.

For Petitioner : Mr.M.Selvam.

For Respondents : Mr.A.Damodharan,
Addl. Public Prosecutor
For R1 to R4.

ORDER

This Writ Petition has been filed to call for the records of the 4th respondent in C.No.59/ DC-CCB-II/ COP/ Whatsapp/2021, dated:19.07.2021 and quash the same and to direct the Commissioner of Police to constitute a Special team to investigate the petitioner's complaint dated 17.04.2021.

2. The contention of the petitioner is that on 17.04.2021, the petitioner had lodged a complaint before the 4th respondent. But, no action had been taken so far. Earlier, he had filed a petition in CrI.O.P.No.17062 of 2021 before this Court and this Court, vide order dated 23.09.2021, directed the respondent police to complete the enquiry, in the event of closure of the complaint, to send the closure report to the petitioner. Now, the closure report dated 19.07.2021 served to the petitioner for the reason that petitioner and the counter complainant having business relationship and there is arbitration clause to invoke in the event dispute in contractual business obligations, which is not proper. Against which, the present petition filed.

3. The learned counsel for the petitioner submitted that there was business relationship between the petitioner and the 5th respondent/Creative 54 Events & Advertising and there is a written agreement with several clauses including the clause of arbitration. Apart from it, counter complainant had sent a reply notice dated 24.02.2021 admitting the business transactions, liability and the receipt of Rs.96,00,000/- (Rupees Ninety Six lakhs only) from the petitioner and also admitted that due to the prevailing Covid-19 pandemic situation, they were unable to fulfil the agreement and assured to return the transaction amount shortly, but failed to repay, which squarely attracts the offence of cheating and misappropriation. Despite the same, the respondent police has not taken any action.



4. The learned Additional Public Prosecutor submitted that there was a franchise agreement between the petitioner and the counter complainant. It is a written agreement, with various clauses enlisted and one of the clauses is Arbitration clause. As per the Arbitration clause, in the event of failure of the contract, the same to be resolved through arbitration. The transaction between the petitioner and the 5th respondent, as per agreement, is a business transaction. It is a commercial dispute.

5. This court considered the submissions and perused the materials available on records carefully.

6. Finding business and commercial transactions between the petitioner and the counter petitioner and Arbitration clause is available in the agreement, in case of business dispute, the respondent police had closed the case. Therefore, when there is an arbitration clause in the agreement closing the criminal case is permissible, provided after enquiry. In this case, enquiry conducted and closed. Hence, this petition is not maintainable. Further in view of the Order passed by a Division Bench of this Court in G.Prabhakaran v. The Superintendent of Police, Thanjavur reported in (2018) 2 LW CrI 489, the petitioner following the guideline to work out his remedy.

7. If the petitioner got materials to substantiate his contention, the same to be produced before the lower Court by filing appropriate petition as per the directions issued by the Division Bench of this Court in the order referred supra.

8. With the above observations and directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

To

1. The Director General of Police,
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Mylapore,
Chennai - 600004.



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