



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.20372 OF 2017

Nirav Bibin Shah

... Petitioner

.Vs.

The Inspector of Police,
Central Crime Branch,
Chennai Rural,
St. Thomas Mount,
Chennai.

... Respondent

PRAYER:-

Criminal Original Petition filed under Section 482 of Criminal Procedure Code to call for the records in C.C.No.85 of 2017 and quash the charge sheet filed by the respondent.

For Petitioner : Mr.T.Ravi Chandran

For Respondent : Mr.S.Vinoth Kumar
Government Advocate (Crl. side)

ORDER

This Petition has been filed to quash the Final Report filed against the Accused 1 to 3 that the Accused 1 to 3 have been induced the defacto complainant to do interior works in the company known as Colourplus and they agreed to pay a sum of Rs.40,72,695/- to the defacto complainant. Again they have agreed to pay sum of Rs.3,95,328/- towards the interior decoration of DLF IT Park. Though the Defacato Complainant has completed the 85 per cent of the work, the accused have paid only Rs.17,55,000/- in seven installments and liable to pay a sum of Rs.29,15,521/-. Besides the accused have also used the materials belonging to the defacto complainant Thereby the accused have committed the offence under Sections 406, 420 of IPC.



2. It is the contention of the learned counsel for the petitioner that the Petitioner was arrayed as A3 prosecuted as the Director of the Company. Accused 3 is only an employee of the Accused 1 and Accused 2 and he has no way connected with the entrustment of work and retention of payment. Therefore, his main submission is that for default of payment committed by the A1 and A2, the Petitioner/A3 being an employee cannot be prosecuted. To show that the petitioner is the employee of the A1 and A2 Company Appointment Letter dated 26.05.2003 als filed. Copy of the Master Data also filed to show that only A1 and A2 are the Directors of the company viz., Ensemble infrastructure India Limited.

3. When confronted, the learned Government Advocate (Criminal Side) appearing for the respondent submitted that the Accused 3 was only an employee and he was not the Director of the Company. Though charges were levelled against the accused under section 406, 420 IPC, the main accusation relied to the non payment of A1 and A2 towards the work done by the defacto complainant as the interior designer. Accused 1 and A2 are the directors of the company viz., Ensemble Infrastructure India Ltd.,. The the allegation of the prosecution story indicates that the work was allotted by the company Ensemble Infrastructure India Ltd., Chennai Branch, the master data clearly indicated that A1 and A2 are Directors. As the A3 is an employee, for default committed by the company and payment towards the interior design, the prosecution against A3 is nothing but, sheer abuse of law. Even the entire materials collected in this case, the same will not constitute any offence against A3 even on merits.

4. In such a view of the matter continuing the prosecution against A3 is not desirable and infact infringe the right of the A3, he was an employee of the A1 and A2 Company. Accordingly the case against the Petitioner/A3 is quashed.

5. In view of the same, the Criminal Original Petition is allowed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

nr/ggs



To

1. The Inspector of Police,
Central Crime Branch,
Chennai Rural,
St. Thomas Mount,
Chennai.

2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.T.Ravi Chandran, Advocate, S.R.No.58682

CRL.O.P.NO.20372 OF 2017

KV(CO)
PBS/14/12/2021