



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2021

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

CrI.O.P. No.26353 of 2017
and
CrI.M.P. Nos.15188 & 15189 of 2017

Jude Xavier

... Petitioner/Accused 3

Versus

M.R.Vinit Srivastava

... Respondent/Complainant

Criminal original petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C. No.7725 of 2017 on the file of XVIII Metropolitan Magistrate, Saidapet, Chennai to quash the same against the petitioner herein.

For Petitioner : Mr. A.Ramesh
Senior Counsel
for Mr.A.Edwin Prabakar

For Respondent : No appearance

O R D E R

This Criminal Original petition has been filed to quash C.C. No.7725 of 2017, on the file of XVIII Metropolitan Magistrate, Saidapet.

2. Mr. A.Ramesh, learned Senior Counsel, who is appearing on behalf of the petitioner submitted that the respondent filed a complaint before the XVIII Metropolitan Magistrate, for defamation against three of the Ex. Employees of M/s. Technosoft Global Services Pvt. Ltd. (hereinafter called the 'company') where the petitioner was working. The petitioner, defacto complainant and two other persons who were arrayed as A1 and A2 were the employees of the company and at present all of them left the company. None of them are the Directors of the company.

3. In the present case, the grievance of the defacto



complainant is that the company initiated arbitration proceedings wherein they have made some statement about the defacto complainant in the claim petition. According to the defacto complainant, the said statement made in the arbitration proceedings amounts to defamation. Therefore, a complaint was filed against the three ex-employees of the company. The revision petitioner was arrayed as third accused. A1 and A2 have already filed a Criminal Original Petition before this Court in CrI.O.P. No.1544 of 2018 and this Court by its order 28.04.2020, quashed the C.C. No.7725 of 2017.

4. Citing the relevant paragraphs in the said order, learned counsel for the petitioner submitted that unless or otherwise, arbitration proceedings are concluded, no proceedings can be initiated for defamation against the revision petitioner and it is premature to entertain a complaint at this stage. Further he submitted that since this Court quashed the entire C.C. No.7725 of 2017 and allowed the Criminal Original Petition which was filed by the other two accused, it will apply for all the accused in the said C.C. However, the learned Magistrate has not accepted the contention of the petitioner. Therefore, the petitioner was constrained to file the present petition.

5. Despite notice being served on the respondent and his name is printed in the cause list, no one appeared on behalf of the respondent.

6. Heard the learned counsel appearing for the petitioner and perused the records.

7. This Court, by its order dated 28.04.2021, in CrI.O.P. No.1544 of 2018 which was filed by other two accused, quashed C.C. No.7725 of 2017 and allowed the Criminal Original Petition. Mere allegations made in the claim petition which was filed before the Arbitrator, would not amount to defame the name of the defacto complainant. Based on the averments in the claim petition, the Court below ought not to have entertained the complaint for defamation against the petitioner. The Court below needs to apply its mind before taking a complaint on file. In this case there is no piece of material to prove the case of the defacto complainant except the averments made in the claim petition filed before the Arbitrator. Unless or otherwise, a particular averment is made in any petition, including the claim petition in the present case, adjudicated by the Court of law, no proceedings for the malicious prosecution can be initiated. In the present case, it is not a malicious prosecution but it is defamation and it is premature. Based on the allegation alone, the respondent defacto complainant is not entitled to file any complaint against the petitioner for defamation. This attitude of the defacto complainant clearly amounts to abuse of process



of Court. These type of practices should not be entertained.

8. In this view of the matter, C.C. No.7725 of 2017, on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai, is quashed and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

bkn / rap

To

1. The XVIII Metropolitan Magistrate,
Saidapet, Chennai.
2. Do Through,
The Chief Metropolitan Magistrate,
Egmore, Chennai-8.

+1cc to Mr.M.Habeeb Rahman, Advocate, S.R.No.55895

Cr1. O.P. No.26353 of 2017

PVS (CO)
SU (17/11/2021)
SU (09/12/2021)