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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 17/12/2021

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CrI. O.P. No.28115 of 2017
and
CrI.M.P.Nos.15994 and 15995 of 2017

Subrata Paul

...Petitioner

Vs

P.Vadivelu

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.527 of 2017 on the file of the learned Judicial Magistrate No.VI, Coimbatore, and quash the same.

For Petitioner ... Mr.R.Shivakumar

For Respondent ... No appearance

O R D E R

This Criminal Original Petition has been filed to quash C.C.No.527 of 2017, pending on the file of the learned Judicial Magistrate No.VI, Coimbatore.

2. Brief facts of the case in a nutshell is as follows:-

The petitioner/single accused is the General Manager of Ranga Vilas G.S. & W Mills, unit of National Textile Corporation Limited, a Government of India Undertaking and the defacto complainant was working as a Cashier in the above mill. There arose some allegations of misappropriation of funds. As a result, the then General Manager, lodged a complaint to the respondent Police. Pursuant to the same, the defacto complainant along with the then General Manager went to the Police Station.



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3. The main grievance ventilated by the respondent is that the respondent was denied to take his vehicle, bearing Registration No.TN37BE4330 (Mahindra jeep), which is now inside the petitioner's mill premises, thereby the entire allegation attracted against the defacto complainant.

4. Learned counsel appearing for the petitioner submitted that the alleged occurrence was took place in the year 2016, but private complaint was filed on 18/8/2017. The complaint is vague and there is no mention about the date of occurrence, date of representation. The petitioner who is working in the Mill comes under the control of Ministry of Textiles, Government of India. Therefore, before taking cognisance, previous sanction under Section 195 of the Code of Criminal Procedure is mandatory. Hence, the entire transaction is nothing but an abuse of process of law.

5. There is no representation on behalf of the respondent.

6. On a perusal of the entire private complaint, the only allegation is that on the date when the defacto complainant went to the Police Station, he left his jeep in the mill premises. After he was let out by the Police, when he came to take back his vehicle, security did not allow him inside the mill.

7. It is relevant to note that the materials placed before this Court would indicate that the complaint given by the then General Manager one Chandramouli for various misappropriation, said to have committed by the defacto complainant. The above complaint was given to the Police on 22/3/2016. It is to be noted that the present complaint has been filed against the petitioner, who joined as General Manager, on 15/6/2017 and that itself clearly indicate that this complaint is nothing but an abuse of process of law.

8. Further it is to be noted that the present petitioner has taken steps to cancel the bail granted to the defacto complainant as could be seen in the order passed by this Court in CrI.O.P.No.25931 of 2017 dated 21/8/2018. Apprehending the cancellation of bail granted to the petitioner, the present private complaint has been filed.

9. Unfortunately, the learned Judicial Magistrate, without applying his mind took cognisance of the offence and issued summons. Even assuming that the vehicle was left in the premises, it cannot be presumed that 424 of the Indian Penal Code has been attracted to take cognisance. In such a view of the matter, since this Court finds that entire proceedings goes fishy, malafide and motivated, the same is quashed.



10. In the result, this Criminal Original Petition is allowed. Proceedings in C.C.No.527 of 2017 pending on the file of the learned Judicial Magistrate No.VI, Coimbatore, is quashed. Consequently, connected Criminal Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

mvs.

To

1.The Judicial Magistrate No.VI,
Coimbatore,

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.M.Vijayan Associates, Advocate SR. No.68354

Cr1. O.P. No.28115 of 2017

CP (CO)

PR (06/01/2022)