IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2021

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

Crl. O.P. No.28762 of 2017
and
Crl. M.P. No.16254 of 2017

S.Ravikumar ...Petitioner

Vs.

1. The Inspector of Police,
District Crime Branch,
Uthagamandalam,
Nilgiris District.

2. N. Sethuraman ... Respondents

PRAYER:Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in Crime No.7 of 2017 on the file of the 1st respondent police and quash the same.

For Petitioner : Mr. K.S. Karthik Raj
For Respondent-1 : Mr. E. Raj Thilak,
(Counsel for Govt. of Tamilnadu)

For Respondent-2 : Mr. S. Ramachandiran

O R D E R

This Criminal Original Petition has been filed seeking to call for the records in Crime No.7 of 2017 on the file of the 1st respondent police and quash the same.

2.The case of the prosecution is that on the basis of the complaint made by the 2nd respondent herein, the 1st respondent police has registered a case in Crime No.7 of 2017 against the petitioner herein for the alleged offence punishable under Section 408 of the I.P.C. The 2nd respondent herein in his complaint has stated that the petitioner was employed by the 2nd respondent as an in-charge of Pharmaceuticals divisions in one of the companies and thereafter designated as a Manager wherein the petitioner herein misappropriated money between in the year 2012 and 2015. Hence, the complaint was made by the 2nd respondent herein against the petitioner for committing criminal breach of trust.

3. The learned counsel for the petitioner would submit that the incident is stated to have occurred in the year 2011 to 2015 in Kitwe, Zambia. There is no single averment in the FIR that the transaction took place in India, much less within the jurisdiction of the 1st respondent to register an FIR. Therefore, the said FIR is wholly without jurisdiction and hence ought to be quashed.

4. It has been further submitted that the petitioner used to report daily sales, daily collections to the 2nd respondent -Managing Director and Directors as well as by phone communication. Apart from this, the petitioner would send the monthly stock report and sales report, collection report, expenses report, customer outstanding as on date, every week sales report to the 2nd respondent/Managing Director and Directors before 5th of every month by E-mail and also hard copies of the same were sent through Zambia Postal Department to head office at Lusaka. The accounts of the company at Kitwe Branch was audited every financial year at the Head Office at Lusaka. When everything was being done in a proper manner, the 2nd respondent issued a show cause notice that funds were misappropriated by the petitioner and hence he was called upon for explanation in a weeks time. The petitioner replied that he is not responsible and that all the accounts have been properly communicated in a periodical manner. In the meanwhile, the 2nd respondent has lodged a false complaint against the petitioner for misappropriation of funds in the company. Aggrieved over the same, the petitioner has approached this Court to quash the FIR since the allegation against the petitioner herein is totally false.

5. The learned Government Advocate (Crl. Side) would submit that the said FIR in Crime No.7 of 2017 was closed before the 1st respondent police since further action was dropped against the petitioner.

4. The learned counsel for the 2nd respondent would submit that the petitioner has swindled a huge sum from the fund transaction of company. In view of the technical issue, further action was dropped against the petitioner and hence, he prays this Court to grant liberty to the 2nd respondent to proceed further against the petitioner herein in accordance with law.

5. Heard, the learned counsel for the petitioner, the learned Government Advocate (Crl. Side) for the 1st respondent and the learned counsel for the 2nd respondent as well as perused the material available on record.

6. On seeing the report filed by the Government Advocate (Crl. Side), it seems that after investigation in Crime No.7 of 2017, charge sheet filed on 31.12.2018 wherein it has been reported that further action has been dropped and thereby FIR was closed. Under this circumstances, there is nothing survives in this petitioner for further adjudication and however, since a huge amount has been misappropriated in the company the learned counsel for the 2nd respondent is granted liberty to proceed further against the petitioner in accordance with law.

8. In the result, this Criminal Original Petition is closed Consequently, connected miscellaneous petition is also closed if any.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

lbm

To:
1. The Inspector of Police,
   District Crime Branch,
   Uthagamandalam,
   Nilgiris District.

2. The Public Prosecutor,
   High Court of Madras,
   Chennai.

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PL (CO)
K.RK. (22.09.2021)