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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.20782 of 2018

and

CrI.M.P.No.11228 of 2018

Kevin

... Petitioner/Accused

Versus

1.State represented by
The Inspector of Police,
CCB, Egmore,
Chennai.

...1st Respondent/ complainant

2.Sulaiman Abdul Gaffor

...2nd Respondent/ defacto complainant

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973 to call for the records on the file of the 1st respondent in FIR.No.269 of 2017 dated 12.08.2017 and quash the same against the petitioner herein.

For Petitioner : Mr.P.Saranath

For Respondents : Mr.A.Damodaran,
Additional Public Prosecutor for R1

O R D E R

This Criminal Original Petition is filed to call for the records on the file of the 1st respondent in FIR.No.269 of 2017 dated 12.08.2017 and quash the same against the petitioner herein.

2. The gist of the complaint is that the defacto complainant Sulaiman Abdul Gaffor is presently in Kuwait and running a business in the name of M/s.Lucky Press. He came in contact with the petitioner through one Mohandass, who introduced M/s.Stalwart International Trading Private Ltd.,



There was some business transaction between them, pursuant to which Memorandum of Understanding was entered and cheques were also given to settle the issues between them, which was dishonoured. Hence, the complaint.

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3. The contention of the petitioner is that the petitioner as well as the defacto complainant settled in Kuwait and they came in contact with each other when they were in Kuwait. The petitioner had introduced M/s.Solution Managers International to the defacto complainant. Thereafter, they had business between them. In the business there was some dispute with regard to the receipt and payments, this was in the year 2012, for 5 years they have been in business together. Jaiganesh of M/s.Solution Managers International passed away in 2017 thereafter for the amount due from Jaiganesh, a false complaint lodged against the petitioner.

4. He further submitted that against the petitioner there have been barrage of complains engineered by the defacto complainant and others. The petitioner was arrested on four occasions. In fact one Gowtham who is junior Advocate to Subramaniam Kumar, who was Director along with the petitioner in M/s.Stalwart International Trading Private Ltd., lodged a complaint as though he was threatened. Further when the petitioner was in prison, another complaint was lodged as though he called him by his caste name. In all, several cases registered against the petitioner. The other cases against the petitioner are in Cr.No.1100 of 2017 and 714 of 2017 against which he filed quash applications.

5. The defacto complainant in this case submits that the petitioner cheated the defacto complainant and he not only cheated the defacto complainant he had also cheated others.

6. The learned Additional Public Prosecutor submitted that on the complaint of the defacto complainant investigation is almost at the penultimate stage and the petitioner sitting in Kuwait is not participating in the investigation, despite 41-A notice served on him. He further submits that soon a final report is to be filed in this case.

7. The points raised by the petitioner are general in nature and no specific ground made, to entertain this petition and that too at the stage of investigation.

8. The learned counsel for the petitioner seeks permission of this Court to withdraw this petition and to challenge the final report in the event of positive charge sheet filed. He further submits that already 41-A notice issued and the petitioner was arrested, hence, the custody of the



petitioner is not required. The petitioner not to be victimised, harassed in this case. The Public Prosecutor undertook that no unnecessary harassment will be give, provided petitioner, appear before the trial Court on receipt of summons, co-operate with trial.

9. In view of the same, this Criminal Original Petition is disposed of with liberty to the petitioner to challenge the final report. Further if the positive report is filed, the petitioner shall appear before the trial Court on receipt of summons. Consequently, the connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

/True Copy//

Sub Assistant Registrar

dsa

To

1. The Inspector of Police,
CCB, Egmore,
Chennai.
2. The Public Prosecutor
High Court, Madras - 104.

CRL.O.P.No.20782 of 2018

SJ[co]
NSK 11/05/2022