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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 7/1/2022

C O R A M

THE HONOURABLE Mr.JUSTICE N.SATHISH KUMAR

Crl.O.P.No.21478 of 2017

a n d

Crl.M.P.Nos.12629 and 13473 of 2017

Ezhilarasi Manoharan

... Petitioner

Vs

1. The Inspector of Police
District Crime Branch
Nagapattinam
Nagapattinam District.

2. M. Sridevi

... Respondents

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records and quash F.I.R.No.6 of 2017 on the file of the first respondent.

For petitioner ...Mr.N.A.Nissar Ahmed

For respondents ...Mr.S.Vinoth Kumar
Government Advocate
(Criminal Side)
for R.1

Mr.B.Kumar
Senior Counsel
for Mr.G.Mani Prabhu
for R.2

O R D E R

This Criminal Original Petition has been filed to quash F.I.R.No.6 of 2017, filed for the offences punishable under Sections 406, 409 and 420 of the Indian Penal Code, on the file of the first respondent, by the defacto complainant/second respondent.



2. The crux of the allegation in the First Information Report is that the petitioner is running an Educational Institution, registered under the Societies Registration Act. The second respondent being the member of the Society has filed First Information Report alleging that without approval from All India Council for Technical Education (AICTE), Diploma in Mechanical Engineering and Electrical and Electronics Engineering Courses, for the academic year 2013 - 2014 was opened by the petitioner herein and 120 students have been joined and collected a sum of Rs.72 lakhs, i.e., Rs.60,000/- from each student. That apart, the above amount has also been misappropriated. As the students life has been spoiled, complaint has been filed for the offences alleged.

3. The learned counsel appearing for the petitioner submitted that the defacto complainant is none other than the sister-in-law of the petitioner herein and due to the dispute in running the affairs of the Society, this complaint has been lodged and none of the students have raised any allegations. The complaint has been given in a vindictive manner to take control of the Society.

4. It is his further contention that application for approval was already granted, vide, Proceedings, dated 26/12/2013. The same was recommended by the Director of Technical Education to All India Council for Technical Education. Pending approval from AICTE, courses were opened that too with the approval of the Director of Technical Education. Thereafter, when the action of AICTE is challenged before the writ Court, in W.P.No.13449 of 2021, the same was withdrawn, on 29/10/2021 and an appeal was preferred before AICTE. AICTE, by an order, dated 31/12/2021, stated that EVC conducted at RO Chennai, has observed the deficiencies in the Institute and recommended to close the matter regarding passed out students of 2013 - 2014 batch amicably. When that being the position, this complaint is motivated and hence prays for quashment.

5. Mr.B.Kumar, learned Senior Counsel appearing for the second respondent submitted that the students got admitted without mandatory approval from AICTE. The future of the students are at risk and they cannot join anywhere. It is his further contention that the permission and approval to be



granted only by the Council constituted under the Regulation and the same has not been done in this case and the DOTE has no right to grant approval. Since huge amounts have been collected and misappropriated, the same has to be proved. Hence opposed for quashing.

6. Heard the learned counsel appearing on either side and perused the entire materials available on record.

7. When the prima facie allegations which requires further investigation, this Court would not embark upon roving enquiry, to find out its veracity, while exercising under Section 482 of the Code of Criminal Procedure. But at the same time, if the complaint appears to be motivated, the Court can very well interfere with the same as an abuse of process of law.

8. It is not in dispute that the defacto complainant is the sister-in-law of the petitioner. The dispute raised by the defacto complainant is with regard to the affairs of the Society, which runs educational Institution. The crux of the allegation targeted against the petitioner is that during the academic year 2013 - 2014, around 72 students were admitted in Diploma Courses, without approval from the AICTE and the amount collected from the students is also misappropriated. It is relevant to note that the students admitted in the year 2013 - 2014 have completed the course during 2016 and have obtained certificates also. The Directorate of Technical Education, dated 26/12/2013, granted the approval for the eligible students, though in law, they are not authorised to grant approval. The writ petition in W.P.No.13449 of 2021 was filed challenging the action of AICTE in this regard.

9. Before the writ Court, counter affidavit was filed by AICTE stating that permission was not granted, due to some deficiency in the academic year 2014 - 2015. However, the counter also indicate that AICTE also informed the petitioner Institute, vide, letter, dated 30/11/2017, for the academic year 2013 - 2014, AICTE granted EOA for the existing courses only and did not grant approval for the disputed two courses.

10. From the above facts, it came to be known that at the stage of opening the two courses, there was no approval granted by the AICTE. However, the fact remains that Director of Technical Education has also filed counter in W.P.No.13449 of 2021, wherein it is stated that while opening the new courses, the petitioner Institute has applied for approval from AICTE for



the academic year 2013 - 2014. Anticipating approval from AICTE, as the date for students admission had lapsed. The third respondent accorded admission approval to the above said courses for the academic year 2013 - 2014. Therefore, when the application is already filed before the AICTE, the Director of Technical Education has accorded sanction. Though they are not authorised under law, the intention to cheat the students is absent.

11. At the same time, it is relevant to note that the writ petition filed by the petitioner was also withdrawn and they had filed an appeal before the AICTE. The same is also placed before this Court. Order dated 31/12/2021, passed by AICTE, HQ, New Delhi, is as follows:-

"EVC conducted at RO/Chennai has observed deficiencies in your Institute and has also recommended to close the matter regarding passed out students of 2013 - 2014 batch amicably. It has been decided by the competent authority to place the EVC report before the online SHC/SAC.

You are therefore requested to submit compliance of deficiencies and intimate representative details to this office for conduct of online SAC/SHC, at the earliest."

12. As the AICTE passed the above order, they have not annulled the qualification of the students already passed out and the matter has been decided by the competent authority to close the matter. It appears that AICTE has in fact, ratified the course, which was being opened without the formal approval, at the relevant point of time. It is relevant to note that from the above, it makes it clear that the application was already filed even before opening the courses. As the AICTE itself closed the matter amicably, the defacto complainant, who is the sister in law of the petitioner, cannot take advantage of the violation in getting the approval, at the relevant point of time and prosecute the Institution for personal gain. It is also to be noted that none of the persons allegedly aggrieved over the action of the institution has not filed any complaints so far. From the above, it appears that the very complaint itself is due to personal dispute among the family members, who runs educational institution. In such a view of the matter, this Court is of the view that FIR is nothing but motivated one and abuse of process of law.



13. Accordingly, this Criminal Original Petition is allowed. F.I.R.No.6 of 2017, pending on the file of the first respondent, is quashed. As the finding recorded by this Court is only in disposing of this Crl.O.P, the same would not be binding on any other appeal or proceedings pending in respect of the action of the authorities concerned. Consequently, the connected Criminal Miscellaneous Petitions are closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

mvs.
To

1. The Inspector of Police,
District Crime Branch,
Nagapattinam ,
Nagapattinam District.
2. The Public Prosecutor,
Madras High Court,
Madras.

+1cc to Mr.N.A.Nissar Ahmed, Advocate Sr.1790

Crl.O.P.No.21478 of 2017

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srg 31/01/2022