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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2022

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.OP.No.25752 of 2021

&

CrI.M.P.No.14286 of 2021

S.Peter

...Petitioner

Vs.

1. State represented by
Inspector of Police,
T-13, Kundrathur Police Station,
Kancheepuram District,
(Crime No.207 of 2015).
2. State represented by
Assistant Commissioner of Police,
EDF-3, Central Crime Branch-II,
Vepery, Chennai - 600 007
(Crime No.207 of 2015)
3. Choloho Kim
Executive Director,
K & K Contech Engineering
Private Limited, No.3203, 1st Floor,
U.K.Towers, Mount Poonamallee Raod,
Chennai - 600 056.

...Respondents

Prayer: Criminal Original Petition has been filed under Section 482 Cr.P.C to call for the records relating to Crime No.207 of 2015 on the file of the 1st Respondent police and quash the same.

For Petitioner : Mr. R.Murali

For Respondent : Mr.R.Vinothraja
Nos.1&2 Government Advocate (CrI.Side)

For Respondent : Mr.S.Sivashanmugam
No.3



ORDER

The petitioner, who is the accused in Crime No.207 of 2015 for offences under Sections 420, 406 & 506(i) IPC, has filed this quash petition.

2.The gist of the complaint is that the third respondent Executive Director of K & K Contech Engineering Private Ltd., lodged a complaint on 17.06.2014 stating that they entered into an agreement with M/s.Madha Constructions and Properties Private Ltd., managed by the petitioner/ accused, for the construction of property measuring 45,000Sq.feet at Alapakkam Main Road, Maduravoyal Chennai. Since commencement of work, they have not received the payment as per the agreement terms. The bill for Rs.64,27,073/- was presented on 19.10.2019. The petitioner refused to pay the bill for the reason that he was lack of understanding with the agreement terms and conditions and forced to cancel the bill and amend the payment terms according to his convenience. Till 24.11.2013, they have completed the work to the tune of Rs.4,62,30,852/- but they received only Rs.1,85,61,119/-. Evenafter, the revised agreement terms, the petitioner failed to release the payment of Rs.2,59,86,700/-. On 14.06.2014, when the third respondent along with his staff had gone to the petitioner's office for the due payment, they were made to wait for the whole day. Further, they were abused and threatened and they were shoved off. Hence, the complaint came to be lodged.

3.The contention of the learned counsel for the petitioner is that a civil dispute is given a criminal colour the petitioner was forced to settle the demands of the defacto complainant/ second respondent. The defacto complainant filed a civil suit in C.S.No.308 of 2015 and the suit was decreed in favour of the plaintiff. Aggrieved against the same, the petitioner filed an original side appeal in O.S.A.No.56 of 2021. During the pendency of the original side appeal, settlement was arrived and memo of compromise dated 04.03.2021 recorded. As per the memo of compromise, the dues between them was crystallized and three crores was fixed as the settlement amount. The three crores were paid as follows:

(i) Rs.1 crore was paid by way of demand draft No.978026 dated 26.02.2021 drawn on Karur Vysya bank, Kundrathur Branch.

(ii) The second installment of one crore was paid by way of a cheque No.000341 dated 31.03.2021, drawn on Karur Vysya Bank Ltd., Kundrathur and



(iii) the third and final cheque amount of Rs.one crore was paid by way of a cheque No.000342 dated 03.04.2021 drawn on Karur Vysya Bank Ltd., Kundrathur.

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and the entire due amount was settled, in view of the compromise.

4.The learned Government Advocate (Crl.side) submits that on the complaint of the petitioner, FIR registered, investigation is pending.

5.The third respondent /defacto complainant's counsel submitted that in this case, the defacto complainant and the petitioner entered into an construction agreement for the petitioner's college and other facilities. The petitioner raised dispute with regard to the terms of the payment and withheld the payments. Further, they were also stopped and forced away from the working site and the petitioner was planning to create encumbrance to the property and to alienate. In view of the same, the third respondent lodged a complaint and a case in crime No.207 of 2015 registered. The second respondent filed a civil suit in C.S.No.308 of 2015 seeking recovery of its due and the suit claim amount of Rs.3,18,33,708/- along with the interest. The suit was decreed in favour of the third respondent/defacto complainant. Thereafter, the petitioner filed an appeal in O.S.A.No.56 of 2021. During the pendency of the appeal, a compromise was arrived at on 04.03.2021 and O.S.A. was disposed of on 30.03.2021 recording the compromise memo and the compromise memo was extracted and the same forms part and parcel of the order in O.S.A.No.56 of 2021. As per the compromise memo, the agreed amount of Rs.3 crores was paid and now, the issue between them have got resolved. In view of the same, the third respondent he has got no objection for quashing the complaint in Crime No.207 of 2015.

6.Considering the submissions and on perusal of the materials, it is seen that the issue between the petitioner and the third respondent is predominantly with a civil flavor. For non payment of the contract agreed amount, the complaint was lodged, followed it, civil suits before this Court in O.S.No.308 of 2015 and O.S.A.No.56 of 2021 filed. In the meanwhile, compromise arrived in O.S.A.No.56 of 2021 and the compromise was extracted and the same forms part and parcel of the order. The third respondent/defacto complaint admits that the compromise was fulfilled and its dues of 3 crores was settled.



7. Accordingly, this Criminal Original Petition stands allowed and as a sequel, the investigation in Crime No.207 of 2015, on the file of the 1st respondent police, is quashed. Consequently, connected Criminal Miscellaneous Petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

sms
To

1. The Inspector of Police,
T-13, Kundrathur Police Station,
Kancheepuram District,
(Crime No.207 of 2015).
 2. The Assistant Commissioner of Police,
EDF-3, Central Crime Branch-II,
Vepery, Chennai - 600 007
(Crime No.207 of 2015)
 3. The Public Prosecutor,
High Court, Madras.
- +1 CC to Mr.R.Murali, Advocate sr 3790.

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SSI (CO)
SP(14/03/2022)