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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 03.01.2022

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.No.15772 of 2017

&

Crl.M.P.Nos.9827 and 9828 of 2017

1. Dhanraj Jain
S/o. Nemichand Jain

2. Inderchand
S/o.Dhanraj Jain

3. Jitesh Kumar
S/o.Inderchand

...Petitioners/Accused 1 to 3

Vs.

J.Vidya Nathan

...Respondent/Defacto complainant

Prayer: Original Petition filed under Section 482 Cr.P.C to call for the entire records in C.C.No.2037 of 2017 ending on the file of XIV Metropolitan Magistrate, Egmore (at Allikulam), Chennai and quash the same.

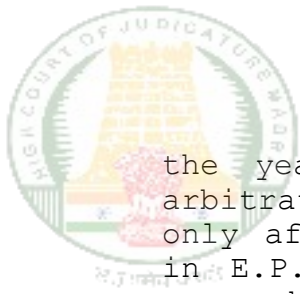
For Petitioners : Mr.G.Rajkumar

For Respondent : Mr.J.Nandagopal

ORDER

This petition has been filed to quash the private complaint filed for the offences under Sections 210, 406 and 420 IPC, which was taken on file by the learned XIV Metropolitan Magistrate, Egmore (at Allikulam), Chennai in C.C.No.2037 of 2017.

2. The crux of the complaint is that the complainant has borrowed a sum of Rs.7,00,000/- in the year 1993 from the first and second accused and repaid the loan amount in the year 1995. However, the third petitioner herein, by using the signed blank papers given at the time of availing the loan in



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the year 1993, has created false documents and initiated arbitration, which has not been known to the complainant and only after receiving the notice in the execution proceedings in E.P.No.101 of 2013, she came to know that arbitration proceeding have been initiated against the de facto complainant and an ex parte award has been passed. The arbitration award has been challenged by the de facto complainant under Section 47 of CPC before this Court. It is the contention of the petitioners that though a complaint has been given before the police, the same has not been investigated by the police properly and the police has referred the case as purely civil in nature and closed the case. In a nutshell, it is the contention of the complainant that all the papers have been created to show that there is an agreement between the parties and the third petitioner played a fraud on the Court and obtained the award.

3. The learned counsel appearing for the petitioners submitted that having suffered the arbitration award and several other orders from the Courts, a novel method has been adopted by the respondent by giving a criminal colour to unsettle the award passed in the arbitration proceedings and hence, submitted that the entire proceedings are nothing but an abuse of process of law.

4. The learned counsel appearing for the respondent submitted that the petitioners are land grabbers and they created bogus documents to initiate the arbitration proceedings and there are many cases pending against them. It is his further submission that the de facto complainant was also given liberty to file an application to challenge award under Section 34 of the Arbitration and Conciliation Act, 1996 and hence, opposed for quashing the proceedings.

5. On a perusal of the entire complaint filed before the trial Court, it reveals that it is not the case of the respondent herein that her signature has been forged by the petitioner. The complaint itself indicates that the de facto complainant has borrowed the amount and signed in several blank papers. It is not disputed by the complainant that arbitration proceedings were initiated and award has been passed pursuant to which execution petition has also been filed and the respondent has also filed an application under Section 47 of CPC challenging the execution proceedings. However, the same has been dismissed by the Executing Court, which was also challenged before this Court in A.Nos.1994 and 1995 of 2019 in A.No.2757 of 2015 in A.No.7117 of 2015 in E.P.No.101 of 2013 and the same have also been dismissed vide order dated 14.03.2019 on the ground of maintainability. Similarly, appeals filed against the said order in O.S.A.Nos.112 and 113 of 2019 have also been dismissed. These are all admitted facts. Therefore, the respondent having failed in her attempt to challenge the award, now filed a complaint under Section 200 Cr.P.C as if there were forgery or



fraud played on the Court. The very complaint itself indicates that the respondent was a party to the documents. Merely because she has not been served with notice in the arbitration proceedings and she remained ex parte, it cannot be construed that the entire documents have been created and she was subjected to cheating. On perusal of the entire complaint, this Court is of the view that only in order to unsettle the civil proceedings, the complaint has been pressed into service. The same is nothing but an abuse of process of law and the private complaint is liable to be quashed.

6. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No. 2037 of 2017 pending on the file of XIV Metropolitan Magistrate, Egmore (at Allikulam), Chennai is quashed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

gpa/gba

To

XIV Metropolitan Magistrate Egmore (at Allikulam)
Chennai.

+1cc to Mr.J.Nandagopal, Advocate SR. No.15

+1cc to Mr.G.Rajkumar, Advocate SR. No.530

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Crl.M.P.Nos.9827 and 9828 of 2017

SR (CO)

PR (21/01/2022)