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CrI.O.P.No.10460 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2023

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THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CrI.O.P.No.10460 of 2015

and

MP.Nos.1 & 2 of 2015

- 1 S.Mukanchand Bothra (Died)
2. M.Gagan Bothra ...Petitioners

-Vs-

R.Krishna Murthy @ Kastooriraja,
Director R.K. Productions (P) Ltd.,
16/5, Rajamannar Street, T.Nagar,
Chennai - 17.

Rep. by Authorised person Balaiya.

...Respondent

Petition filed under Section 482 of Cr.P.C., to call for the entire records pertaining to the complaint in C.C.No.332 of 2015 pending on the file of the Learned VIII M.M. George Town, Chennai and to quash the same.

For Petitioner : Mr. M.Gagan Bothra (Party in Person)

For Respondents : M/s.Haja Mohideen Gisty



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When the said cheques were presented, the same has been dishonored and were returned unpaid by the banker. Due to the dishonour of the cheques, the 1st petitioner lodged complaints as against the defacto complainant on the file of the FTC-4 in C.C.472 & 411 of 2013 and the same ended in acquittal and the subsequent appeal preferred was also dismissed.

4. The 2nd petitioner/party in person submitted that the entire transaction took place in between the 1st petitioner/1st accused and the 2nd petitioner has nothing to do with the transaction that took place in between the 1st petitioner/1st accused and the de-facto complainant and he is not involved in any of the transactions with the respondent. He further submitted that no other allegation was made against the 2nd petitioner except in 5th Paragraph in which it is stated that, a sum of Rs.10,00,000/- along with exorbitant interest was paid to the 2nd petitioner and no other serious allegation was made against him and all other allegations are only general in nature. As no allegation proper has been made against him, he prayed for allowing this petition.



CrI.O.P.No.10460 of 2015

WEB COPY

5. Learned counsel appearing for the respondent submitted that, though the entire amount was borrowed from the 1st petitioner/1st accused, however, before the release of the film, a portion of the borrowed amount was paid/returned to the 2nd petitioner/2nd accused, who colluded with the 1st petitioner/1st accused, who is none other than his father and threatened the respondent and spoiled his reputation. Hence, this complaint.

6. Heard both sides and perused the materials placed on record.

7. It is the claim of the petitioners that the respondent borrowed a sum of Rs.65,00,000/-, however, it is the claim of the respondent that, he borrowed only a sum of Rs.10,00,000/- and the same was also repaid even before the release of the film namely "3". Since the issue involved in the present case pertains to disputed question of facts, the same cannot be entertained by this Court.

8. Further, even a bare perusal of the complaint in C.C.No.332 of



Crl.O.P.No.10460 of 2015

2015, reveals that the entire transaction took place between the 1st petitioner/1st accused and the respondent and the 2nd petitioner is not involved in the monetary transaction. Except for the fact, as averred in para-5 of the of the complaint wherein a statement has been made that a sum of Rs.10,00,000/- along with exorbitant interest was paid to the 2nd petitioner, there is no specific allegation made against the 2nd petitioner. A careful perusal of the complaint reveals that all the allegations pointed against the 2nd petitioner are vague in nature and no pointed allegation is made against the 2nd petitioner. In view of the fact that there is no pointed allegation made against the 2nd petitioner and further the fact that in respect of the monetary transaction between the 1st petitioner and the respondent, the 2nd petitioner was in no way connected with the said transaction, the inclusion of the 2nd petitioner is wholly impermissible and the intent with which the 2nd petitioner has been brought in as an accused is only for the purpose harassing the 2nd petitioner.

9. In view of the above, this Court is of the view that, the complaint in C.C.No.332 of 2015 pending on the file of the learned VIII M.M George Town, Chennai, insofar as the 2nd petitioner is liable to be quashed as the



CrI.O.P.No.10460 of 2015

complaint against the 1st petitioner already stood abated due to the demise of the 1st petitioner.

10. Accordingly, the complaint in C.C.No.332 of 2015 pending on the file of the learned VIII M.M George Town, Chennai, insofar as the 2nd petitioner is quashed and this Criminal original petition stands allowed. Consequently, the connected Miscellaneous petitions are closed.

25.01.2023

skt

NCC : Yes/ No
Speaking Order : Yes/ No
Index : Yes/ No

To

1. The learned VIII M.M,
George Town, Chennai
2. The Public Prosecutor,
High Court of Madras,
Chennai-600 104.

6/8



WEB COPY



CrI.O.P.No.10460 of 2015



WEB COPY



Crl.O.P.No.10460 of 2015

M.DHANDAPANI., J.

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Crl.O.P.No.10460 of 2015
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