



CrI.OP.No.9763 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	31.01.2023
Pronounced on	02.03.2023

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

CrI.O.P.No.9763 of 2021

and

CrI.MP.No.6040 of 2021

N.Hariharan

...

Petitioner

Vs.

M/s. Presicion Information (M) Private Limited,
Rep.by its Assistant Manager,
S.Rajamani.

...

Respondent

Prayer:- This Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for records connected to the CC.No.5610 of 2018 on the file of learned XVII Metropolitan Magistrate Saidapet, Chennai and quash the same.

For Petitioner : Mr.K.Rajendra Prasad

For Respondent : Mrs.S.Suseela Devi



ORDER

The Criminal Original Petition has been preferred to quash the proceedings in C.C.No.5610 of 2018 on the file of the learned XVII Metropolitan Magistrate, Saidapet.

2. The petitioner is the sole accused against whom the respondent / complainant has given a complaint by alleging that on 14.08.2012 the respondent had given a security deposit of Rs.40,00,000/-for confirming the lease of a property, within a period of six weeks. And the lease amount would include the cost for putting up a construction in the property. The petitioner neither constructed a building nor returned the amount. He fraudulently induced the complainant to deliver that huge sum. A police complaint given in this regard was treated as a petition. But without making a proper enquiry, the complaint was closed as civil in nature. Hence the respondent has filed a private complaint before the learned XVII Metropolitan Magistrate, Saidapet and the same was taken on file in C.C.No.5610 of 2018 for the offence under Sections 420 and 506(ii) IPC.

3. Heard the submissions made by the learned counsel on either side and perused the materials available on record.



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4.The learned counsel for the petitioner submitted that the contractual obligation between the petitioner and the respondent should be governed by the terms of the contract and if any violations, the remedy open to the respondent is by way of filing a civil suit; there is no criminality attached to the contractual obligations and the respondent had given a criminal colour to a civil transaction; the learned XVII Metropolitan Magistrate, Saidapet, Chennai without properly appreciating the contents of the complaint had taken cognizance of the same; hence the proceedings in respect of C.C.No.5610 of 2018 should be quashed.

5. The learned counsel for the respondent submitted that even though an agreement was entered into between them, it was not a lease agreement but it is an expression of the interest of a party to enter into a lease agreement; the petitioner had influenced the respondent to deliver a huge sum of Rs.40,00,000/- by assuring that he would construct a building and lease it out to the respondent; but he cheated the respondent and enjoys an undue enrichment with money paid by the respondent.

6. On perusal of the alleged agreement dated 14/8/2012, it is seen that it is a very short agreement which contains the averments that the



respondent had expressed his interest in taking out a lease of a property belonging to the petitioner. It is strange to note that a huge sum of Rs.40,00,000/- is said to be a security deposit just to confirm a lease agreement within a period of 6 weeks and to loose the same if confirmation is not given within 6 weeks. The terms of the lease agreement itself would show that it is unfair with onerous conditions that would benefit the lessor. The anxiety in the mind of the respondent has due to competition for the location has been misused by the petitioner.

7.Though on the face of it the lease agreement appears to be a contract, the onerous term benefiting the lessor in the event of non confirmation appears to be an intentional one. Only if a detailed enquiry is conducted and the materials are collected it can be known whether the petitioner had any intention to cheat the respondent by enjoying a wrongful gain from the money paid by the respondent can be found out. The unusual and unnatural term with regard to non-refund of the hefty sum in the terms of the contract shows a prima facie tint for a criminal case. Since the learned trial Judge had felt that the tint is sufficient to suspect an offence, he had taken cognizance. So, I feel there is no acceptable reason for interfering



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with the order of cognizance or the pending proceedings.

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In view of the above stated reasons, this criminal original petition stands **dismissed**. Consequently, connected miscellaneous petition is closed.

02.03.2023

Index : Yes/No

Internet : Yes/No

Speaking/ Non Speaking.

Netural: Yes /No

jrs



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R.N.MANJULA, J.

jrs

To
1.The XVII Metropolitan Magistrate,
Saidapet, Chennai.

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