



Crl.R.C. No.1131 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2023

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THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

Crl.R.C.No. 1131 of 2023 &

Crl.M.P. Nos.8922 & 8925 of 2023

G. Kalaiselvi

...Petitioner

Vs.

1. State represented by its
The Inspector of Police
Central Crime Branch
EDF-I, Team-II
Vepery, Chennai 600 007

2. M/s. Info Tech System Integrators Pvt. Ltd.

Represented by

Mr.S.K.Subramaniyan

No.30, Kalang Place, Singapore 339159

... Respondents

R2 impleaded as per order dated 13.07.2023 in Crl.M.P.No.9758/23 in
Crl.R.C. No.1131/2023.

Prayer : Criminal Revision filed under Section 397 and 401 Cr.P.C.
against the order dated 07.01.2023 in Crl.M.P. No.20558/2021 in C.C.
No.3765 of 2021 on the file of the learned CCB/CBCID Metropolitan
Magistrate at Egmore, Chennai.

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For Petitioner : Mr.M. Krishna Moorthy
For R1 ; Mr. R. Vinothraja, GA (Crl. Side)

ORDER

Challenge in this Criminal Revision is made to the orders dated 07.01.2023 passed in Crl.M.P. No.20558/2021 in C.C. No.3765 of 2021 by the learned CCB/CBCID Metropolitan Magistrate, Egmore, Chennai.

2. The present revision petitioner is the 4th accused in C.C.No.3765 of 2021 on the file of the CCB/CBCID Metropolitan Magistrate, Egmore, Chennai.

3. The case of the prosecution in nutshell is as follows:

- i. M/s. Info-Tech Systems Integrators Pvt. Ltd. is an IT service company having registered office at Singapore doing IT service related computer softwares like job cost, pay role and time



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- ii. The abovesaid company recruited one Suresh (A1) as Manager, R.Vijaya (A2) as IT and Administration Manager, S.Ramakrishnan (A3) as programmer and one G.Kalaselvi (A4 – the present revision petitioner) as Assistant Manager for their back office at Chennai on monthly salary basis during the period 2004 to 2008. These staff have to support Singapore Office. The company was making payment towards salary, bonus, office rent of Indian employees and other expenses directly to V.Suresh's(A1) bank account till June 2011 and thereafter the company transferred the employees' salaries and claims to the respective employee account and Suresh's salary, claims and office expenses were sent to Suresh's bank account in ICICI bank.
- iii. Since Suresh(A1) did not complete the work assigned to him on time and was giving some lame excuses, the Director and other officers of Singapore office came down to India on 27.03.2013 and found all the accused including the present petitioner running a parallel business in the name and style of 'Stone Bridge Info Links'



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and 'Stone Bridge Bio-Soft Technologies Pvt. Ltd.', and marketing the products owned by the company under the brand 'Stone Bridge Info Links' using all the resources of the Company (Info-Tech Systems Integrators Pvt. Ltd.) including the office, employees, infrastructure and equipment and thereby made loss to the company to the tune of Rs.20 crores besides their salary and allowances.

iv. With these allegations, the complainant set the criminal law into motion by way of lodging a complaint, which was registered in crime No.182/2014 against all the accused for the offences punishable under Sections 406, 420, 467 r/w 120(b) IPC and the Investigation Officer examined 15 witnesses and collected various documents and filed his final report against the accused before the Metropolitan Magistrate for Exclusive Trial of CCB cases (Relating to cheating cases in Chennai), and CBCID Metro Cases, Egmore, Chennai.

v. Copies of records were furnished to the accused under Section 207 Cr.P.C and thereafter the present revision petitioner filed a petition



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vi. The contention of the present petitioner is that she was working only as an Assistant Manager under A1 and she is not at all involved in the offences alleged in the final report and that she has been falsely implicated by the complainant.

vii. The respondent/Inspector of Police, Central Crime Branch, Vepery, Chennai, filed a detailed counter stating the various offences committed by the present petitioner/accused and it was asserted that the present petitioner was also involved in the commission of offences.

viii. The learned trial court judge, after considering the rival submissions made by both the parties, dismissed the discharge petition filed by the present petitioner by observing thus:

"Now it is to be considered, whether the prima facie case is made out against the accused. The petitioners/A3, A4 had colluded with other accused (A1,A2) and involved in this commission of offence and the prima facie case is also made out not only by



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way of records as well as the statement of witnesses which was produced by the prosecution. The complicity of these petitioner in commission of offence can be weighed only after the completion of trial and not before. The delay in registration of case or laches in the investigation cannot be looked into at pre-trial stage. The guilty or innocence can be decided only after a full-fledged trial and not before. This court is of the opinion that there is no ground made out for discharging the accused from the case and a prima-facie case is made out by the prosecution. The documents so far collected by the investigating officer and the statement of witnesses establishes the participation of these petitioners in the alleged commission of offence. This petitioners rold in the commission of offence and their innocence can be looked into only at the time of trial and not before. At this juncture, it is too early to find out the innocence or otherwise of the petitioners and the same cannot adjudge at pre-trial stage. As per the available documents, prima facie offence established to frame charges against the accused. This court does not find any merit in this petition."



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ix. Aggrieved over the same, the present petition has been filed.

4. Heard Mr.M. Krishna Moorthy, learned counsel for the petitioner and Mr. R. Vinothraja, learned Government Advocate (criminal side) for the first respondent.

5. Mr.M. Krishna Moorthy, learned counsel for the petitioner drew the attention of this court to various e-mails sent by the Singapore Company to the Income Tax Department wherein it is specifically mentioned that the present petitioner is only a freelancer and that she is not employed under them. He also contended that the amount was remitted by the Singapore Company to the account of A1 (Suresh) mentioning that he is rendering services and management consultancy. He therefore, would contend that the present petitioner can never be said to be involved in the commission of offence as there is no iota of evidence to show that the petitioner conspired with the other accused for committing the offence alleged in the final report. He also drew the attention of this Court to the complaint of A1 before the Commissioner



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of Police, Chennai dated 06.04.2013 and contended that subsequent to the lodging of this complaint, M/s.Info-Tech Systems Integrators Pvt. Ltd., had lodged a false complaint against the accused and that the police without enquiring the same properly had filed the final report against the accused. He therefore prayed for discharging the petitioner from all the charges.

6. A perusal of the records shows that the present accused was recruited as an Office Assistant Manager on 01.03.2008 with a salary of Rs.7,000/- per month by the Info-Tech Systems Integrators Pvt. Ltd. The specific allegation against the present petitioner as well as the other accused is that all the accused were found running a parallel business in the name and style of 'Stone Bridge Info Links' and 'Stone Bridge Bio-Soft Technologies Pvt. Ltd.', and marketing the products owned by the company under the brand 'Stone Bridge Info Links' using all the resources of the Company (Info-Tech Systems Integrators Pvt. Ltd.) including office, employees, infrastructure and equipments. The Investigating Officer conducted elaborate investigation and filed a final



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report and the statements of the witnesses under Section 161(3) Cr.P.C., show that there is a prima facie case against the present revision petitioner/accused.

7. Mr.M. Krishna Moorthy, learned counsel for the petitioner harped on the e-mail sent by the Singapore office to the Income Tax Department wherein it is indicated that all the accused were freelancers and were not working under Info-Tech Systems Integrators Pvt. Ltd. Based on this particular e-mail communication alone, it cannot be held that the present accused was only a freelancer and not employed under M/s.Info-Tech Systems Integrators Pvt. Ltd., Singapore, especially when the present petitioner had accepted the offer letter (dated 01.03.2008) of M/s.Info-Tech Systems Integrators Pvt. Ltd., Singapore, appointing her as an Office Assistant Manager with a salary of Rs.7,000/- per month. In the said letter, it is stated as follows:

"The job scope shall include all works and assignments as defined and assigned by the company ITS (Info-tech systems



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Integratrs herein after ITS). ITS shall reserve the right to change your job scope from time to time as required by the projects or works. ITS shall also reserve the right to terminate your services immediately in any of the following events:

- 1. Breach in your professional conduct and behaviour.*
- 2. If your performance on the job is below expected performance levels.*
- 3. Incompatibilities of your actual skill-sets to those as stated in your resume or information provided during the interview.*
- 4. Any other valid reasons, arising from your omission, act, negligence and/or misrepresentation to ITS.*

In the said appointment letter it is also stated as follows:

"1. Other employment: you are not allowed to take up any other employment or job(s) (directly or indirectly) with any other company during your term of employment with ITS.

2. Other Business activities: You are not allowed to do any other business activities whether in your name or others name directly or indirectly whether it is related or not related to ITS products.



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3. You are not allowed to have contact/communication with ITS suppliers or competitors clients for whatsoever reasons."

In this back drop, it cannot be said that the present petitioner is not involved in the commission of offence and that she is only a freelancer as alleged by the counsel for revision petitioner. Moreover, as already observed by the trial court, the involvement of the present petitioner in the commission of offences can be weighed only after the completion of trial.

8. In the circumstances, I do not see any reason to interfere with the orders passed by the trial court, especially when the trial court had taken cognizance of the offence only after going through the relevant materials.



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9. In the result,

i. the Criminal Revision Petition is dismissed. No costs.

Consequently connected miscellaneous petitions are closed.

ii. The order dated 07.01.2023 passed in Crl.M.P. No.20558/2021 in C.C. No.3765 of 2021 on the file of the learned CCB/CBCID Metropolitan Magistrate, Egmore, Chennai. is confirmed.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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R. HEMALATHA, J.
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To

1. CCB/CBCID Metropolitan Magistrate, Egmore, Chennai.
2. State represented by its
The Inspector of Police
Central Crime Branch
EDF-I, Team-II
Vepery, Chennai 600 007

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