



Crl.R.C. No.1098 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2023

CORAM

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

Crl.R.C.No.1098 of 2023 &

Crl.M.P. Nos8797 & 8698 of 2023

S. Ramakrishnan

...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
Respondents

...

R2 impleaded as per order dated 30.06.2023 in Crl.M.P.No.9213/23 in
Crl.R.C. No.1098/2023.

Prayer : Criminal Revision Petition filed under Section 397 and 401
Cr.P.C. against the order dated 07.01.2023 in Crl.M.P. No.20557/2021
in C.C. No.3765 of 2021 on the file of the learned CCB/CBCID



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Metropolitan Magistrate at Egmore, Chennai.

For Petitioner : Mr.M. Krishna Moorthy

For R1 ; Mr. J. Subbiah, GA (Crl. Side)

ORDER

Challenge is made to the orders dated 07.01.2023 passed in Crl.M.P. No.20557/2021 in C.C. No.3765 of 2021 by the learned CCB/CBCID Metropolitan Magistrate, Egmore, Chennai.

2. The present revision petitioner is the 3rd 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 business 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, petitioner herein) as programmer and one G. Kalaselvi (A4) 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 he was working only as a programmer and that he is not at all involved in the offences alleged in the final report and that he has been falsely implicated by the complainant.
- vii. The respondent/Inspector of Police, Central Crime Branch, Vepery, Chennai, filed a detailed counter stating the 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 way of records as well as the statement of witnesses



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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."

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



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

5. Mr.M. Krishna Moorthy, learned counsel for the petitioner contended that the prosecution has produced no single piece of document to show that he is also involved in the present offence. He drew the attention of this Court to various e-mail correspondences between the accused and the defacto complainant, in which it is stated that the accused are engaged as freelance foreign professionals to do some software projects from their home country itself and that they had never visited Singapore and they are all rendering service only from their country. In the back drop, it is contended that the present petitioner can never be said to be involved in the commission of offence and that there is no iota of evidence to show that the petitioner conspired with the other accused. He therefore prayed for discharge the petitioner from all the charges.



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6. A perusal of the records shows that the present accused was recruited as a programmer on 12.01.2008 and his employment agreement was signed by the 1st accused on behalf of the company. All the employment agreement with the Indian employees were signed by the 1st accused in his capacity as a Manager of Info-Tech Systems Integrators Pvt. Ltd. During March 2013, the directors and other officers of Singapore office visited India and they found all the accused running 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 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. As rightly observed by the trial court, the involvement of the present petitioner in the commission of offence can be weighed only after the completion of trial. It is trite law that the accused



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cannot be discharged only on the basis of delay in registration of FIR or laches in the investigation.

7. 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.20557/2021 in C.C. No.3765 of 2021 on the file of the learned CCB/CBCID Metropolitan Magistrate, Egmore, Chennai. is confirmed.

28.07.2023

Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

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R. HEMALATHA, J.
bga

To

CCB/CBCID Metropolitan Magistrate, Egmore, Chennai

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