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Crl.O.P.Nos.17718, 15592, 15594 & 17715 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Crl.O.P.Nos.17718, 15592, 15594 & 17715 of 2019 and
Crl.M.P.Nos.19129, 7729, 19130, 19188,
19189, 7732, 8952 & 8953 of 2019

Mr.V.V.Senthilnathan

... Petitioner in Crl.O.P.Nos.17715 & 17718 of
2019

Mrs.S.Sangeetha

... Petitioner in Crl.O.P.Nos.15592 & 15594 of
2019

/vs/

1.The Inspector of Police,
Central Crime Branch – I,
Chennai.

2.S.Adam Bava

... Respondents in Crl.O.P.Nos.17715 & 15592 of
2019

1.The Inspector of Police,
Central Crime Branch – I,
Chennai – 600 007.

2.Tr.Mohammed Baruk

... Respondents in Crl.O.P.Nos.17718 & 15594 of 2019



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Prayer in all Crl.O.Ps: Criminal Original Petitions have been filed under Section 482 of Cr.P.C. to call for the records and quash the complaint in FIR Nos.145 &146 of 2019 dated 22.04.2019 pending before the Inspector of Police, CCB-1, Chennai.

For Petitioner in
Crl.O.P.Nos.17715 & 17718
of 2019 ... Ms.Radhika.R.J.

For Petitioner in
Crl.O.P.Nos.15592 & 15594
of 2019 ... Mr.S.R.Raghunathan

For Respondents ... Mr.A.Gopinath,
Govt. Advocate (Crl.Side) for R1
Mr.M.Rajavelu for R2

COMMON ORDER

These Criminal Original Petitions have been filed to call for the records and quash the complaint in FIR Nos.145 &146 of 2019 dated 22.04.2019 pending before the Inspector of Police, CCB-1, Chennai, against the petitioners.

2. Heard the learned counsels for the petitioners and the learned Government Advocate (Crl.Side) appearing for the first respondent and the



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learned counsel for the second respondent in all Criminal Original
Petitions.

3. The petitioners are the accused 1 and 2 in FIR Nos. 145 & 146 of 2019. In FIR No.145 of 2019, the third accused is the Director of M/s.Hokasa Mandiri, Singapore Pvt. Ltd. and the fourth accused is the Facilitator with regard to the transaction between the petitioners and the defacto complainant's Company. The second respondent in Crl.O.P.Nos.17715 & 15592 of 2019 viz., S.Adam Bava is the defacto complainant in FIR No.145 of 2019 and the second respondent in Crl.O.P.Nos.17718 & 15594 of 2019 viz., Mohammed Baruk is the defacto complainant in FIR No.146 of 2019.

4. The first petitioner is the Director and the second petitioner is the Chief Executive Officer of Shivsai Impex (OPC) Pvt. Ltd. The defacto complainant in FIR No.146 of 2019 is the partner of a Company by name Global Energies. The defacto complainant in Crime No.145 of 2019 is the Power Agent for the Company by name PT AL Amoudi Natural Resources Tradmin based in Indonesia. Global Energies is a sister concern of PT AL



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Amoudi Natural Resources Tradmin based in Indonesia. In view of the tri-party agreement between PT AL Amoudi Natural Resources Tradmin, Hokasa Mandiri Singapore PTE.Ltd., Singapore and Shivsai Impex (OPC) Pvt.Ltd., dated 19.10.2018, PT AL Amoudi Natural Resources Tradmin had agreed to export coal from Indonesia to Karaikal Port at Pondicherry. When the goods reach the port, M/s.Shivsai Impex (OPC) Pvt.Ltd., would transport the coal from the Port to Tamil Nadu Newspaper Limited, Units I and II, along with Hokasa Mandiri Singapore PTE.Ltd. During the course of the above said business transaction, the petitioners' Company owed a due of Rs.15,23,86,080/-.

5. The defacto complainant in Cr.No.145 of 2019 is the Power Agent for PT AL Amoudi Natural Resources Tradmin, has preferred a complaint by alleging that the petitioners had not made the payments as agreed by them. The petitioners have also obtained a loan of Rs.2,00,00,000/- from Global Energies and assured to repay the same through cheque. However they have not repaid the said amount through cheques, instead the image of the cheque was sent to Global Energies. In view of that, the partner of the



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Global Energies who is the defacto complainant in Cr.No.146 of 2019 has given a criminal complaint.

6. Since the petitioners are one and the same and the defacto complainants are the sister concern, all matters have been listed together. When the matter is pending, the parties have worked out a settlement among themselves. By virtue of the same, the petitioners have settled the dues to the Global Energies and for which, the defacto complainant in Cr.No.146 of 2022 has signed a memo of compromise before the Mediation. Similarly, the dues of PT AL Amoudi Natural Resources Tradmin were settled for a full quit of Rs.5,00,00,000/- and the defacto complainant who is the Power Agent in the said Company has also affixed his signature agreeing to the terms in the memo of compromise entered into between the parties before the Mediation.

7. Even though the memo of compromise was entered into as early as on 23.03.2022, the matter could not be disposed for the reason that the Reserve Bank of India's clearance could not be obtained for transferring the



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sum of Rs.5,00,00,000/- to the account of PT AL Amoudi Natural Resources Tradmin. However, both defacto complainants have filed the affidavits on 23.12.2022 by stating that clearance for the transfer of Rs.5,00,00,000/- have been given and the said amount got transferred to the account of PT AL Amoudi Natural Resources Tradmin.

8. On 23.12.2022, when the matter was listed, even the Court has not ordered for the appearance of the parties, the Power Agent of PT AL Amoudi Natural Resources Tradmin was present. But however, the prosecution was not informed about the appearance of the parties. When the matter was adjourned and taken up today, the defacto complainant in Cr.No.146 of 2019 Tr.Mohammed Baruk and the first petitioner in both the cases alone were present. Since the learned counsel for the second respondent in Crl.O.P.Nos.17715 and 15592 of 2019 reported about the inconvenience of the Power Agent of PT AL Amoudi Natural Resources Tradmin (Indonesia) to make his presence in person today, his appearance through Video Conferencing is permitted. Accordingly, the learned counsel made a Whatsapp call to Mr.S.Adam Bava from his Mobile Number



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9940112255 to Mr.S.Adam Bava's Mobile Number 8680000000 at 3.30 p.m., and S.Adam Bava appeared through Whatsapp video call and he was identified by the learned counsel and Mr.P.Asokan, Additional Deputy Commissioner of Police, Central Crime Branch, Chennai. He also admitted that the payment of Rs.5,00,00,000/- was given in full quit with regard to the claim made by him.

9. Even though some of the offences are non-compoundable in nature, considering the fact that the amount involved was due to some business transaction between the petitioners and the second respondent in all the cases and the complainant companies have also received their dues as agreed in the Mediation, I feel it is appropriate to record the memo of compromise and other affidavits filed by the respective parties and quash the proceedings as against the petitioners.

10. Accordingly, these Criminal Original Petitions are allowed and the proceedings in FIR Nos.145 & 146 of 2019 dated 22.04.2019 before the first respondent is quashed in so far as the petitioners are concerned



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and the investigation as against the other accused in FIR No.145 of 2019

shall go on. The joint compromise memo dated 23.03.2022 and respective affidavits of the defacto complainants dated 23.12.2022 shall form part of the order. Consequently, connected miscellaneous petitions are closed.

05.01.2023

Index: Yes/No

Internet: Yes/No

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To

- 1.The Inspector of Police,
Central Crime Branch – I,
Chennai.
- 2.The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA ,J.

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