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Crl.O.P.No.20698 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2023

CORAM:

THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

Crl.O.P.No.20698 of 2019

and

Crl.M.P.No.10647 of 2019

- 1.C.Velusamy
- 2.Amithra Veni
- 3.S.Selvaraj
- 4.M.R.Maduraikannan
- 5.K.Balusamy
- 6.V.Balakrishnan
- 7.Mahalingam

...Petitioners / Accused

-Vs-

- 1.The State Rep. by:
The Inspector of Police,
Udumalpet Police Station,
Tiruppur District.

... 1st Respondent / Complainant

- 2.C.Ramachandran

... 2nd Respondent / Defacto Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to the proceedings in C.C.No.218 of 2018 on the file of the Judicial Magistrate Court – I, Udumalpet and to quash the same.



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For Petitioners : Mr.N.R.Elango, Senior Counsel,

For Ms.Aruna Elango

For R1 : Mr.A.Damodaran,

Additional Public Prosecutor.

For R2 : No Appearance

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.218 of 2018 on the file of the Judicial Magistrate Court – I, Udumalpet, filed for the alleged offence under Sections 120(B), 467, 471 r/w 109 and 506(ii) of IPC.

2.It is alleged in the final report that the defacto complainant was originally a Director of a company by name, Srinivasa Balaji Papers Private Limited, in which some of the petitioners are also directors; that the petitioners had misused a blank letter pad, which was signed by the defacto complainant and given to the petitioners; that they had typed in the said blank letter pad to make it appear that the defacto complainant resigned from the company. Hence, the complaint.



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3.Mr.N.R.Elango, learned Senior Counsel appearing for the petitioners, would submit that the First Information Report which, culminated in the impugned final report was lodged on 24.06.2011. The FIR besides being false has suppressed several material particulars relating to the earlier complaint given by the petitioners before the Inspector of Police, Saminathapuram Police Station, Dindugal, on the same set of facts. The defacto complainant also suppressed the proceedings between the defacto complainant and the petitioners pending before the Company Law Board, Chennai, in C.A.No.63 of 2010. The Company Law Board is seized of the very same issue, which is now sought to be raised by the defacto complainant. The learned Senior Counsel therefore submitted that the impugned final report is an abuse of process of law and it is liable to be quashed. Hence, he prayed for quashing of the impugned final report in C.C.No.218 of 2018.

4. The learned Additional Public Prosecutor appearing for the 1st respondent submitted that it is the case of the defacto complainant that the blank letter pad of the company signed by the defacto complainant



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was handed over to the petitioners, which was misused by them to make it appear that the defacto complainant had resigned from the company.

The learned Additional Public Prosecutor, further submitted that the matter has to be adjudicated only before the trial Court and prayed for dismissal of the quash petition.

5. Though notice was served on the 2nd respondent, none has entered appearance on behalf of the 2nd respondent.

6. This Court on perusal of the impugned final report finds that the only allegation is that the petitioners had misused the signed blank letter pad given to them and made it appear that the defacto complainant resigned from the Company. The defacto complainant on the very same set of facts had given a complainant to the Inspector of Police, Saminathapuram Police Station, Dindugal District, which was closed after investigation, wherein, it is stated that the issue is pending before the Company Law Board and the Investigation Officer therein found that there is no sufficient ground for proceeding on the complaint given by the defacto complainant. The report further states that the letter said to



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have been signed by the defacto complainant was sent for forensic examination and it was found that the signature in the said letter pad matched with that of the defacto complainant. Hence, the Inspector of Police closed the case as 'mistake of fact' on 23.02.2011. A notice was sent to the defacto complainant on 25.04.2011 informing him about the closure of the FIR.

7. The defacto complainant has given another complaint to the respondent police, which has culminated in the final report on the same said of facts, suppressing the fact that they had earlier given the complaint before the Saminathapuram Police Station and that was closed. However, during investigation, he admitted that earlier complaint given by him was closed.

8. This Court finds that the very same issue is pending before the Company Law Board, Chennai, in C.A.No.63 of 2010. Admittedly, the defacto complainant's signature has not been forged. According to him, the blank letter pad was misused. Since the very same issues relating to the sharing of the assets of the company and as to whether the defacto



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complainant was expelled forcibly by the petitioners are pending before the Company Law Board, Chennai, this Court is of the view that the impugned final report is an abuse of process of law. Hence, this Court is inclined to quash the final report in C.C.No.218 of 2018 pending on the file of the Judicial Magistrate – I, Udumalpet. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Criminal Miscellaneous Petition is closed.

17.04.2023

smv

Index : Yes/No

Speaking : Yes / No

Neutral Citation : Yes / No



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To,

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- 1.The Public Prosecutor,
High Court of Madras.
- 2.The Inspector of Police,
Udumalpet Police Station,
Tiruppur District.
- 3.The Judicial Magistrate – I, Udumalpet.



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SUNDER MOHAN,J.
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