



Crl.O.P.Nos.30509 & 30511 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 20.03.2023	Delivered on 29.03.2023
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CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Criminal Original Petition Nos.30509 & 30511 of 2019

and

Crl.M.P. Nos.16533 & 16534 of 2019

A.S.Sreevikram ...Petitioner/Accused No.3
in Crl OP No.30509/2019

K.Srinivasan ...Petitioner/Accused No.4
in Crl OP No.30511/2019

Versus

1.The Union Territory of Puducherry
Rep. by Inspector of Police,
Crime Investigation Department, Puducherry,
2nd Floor, New Police Complex,
Gorimedu, Puducherry 605 006. ... Respondent/ Complainant
in both the petitions

2. T. Ganesh ... Respondent/Defacto Complainants
in both the petitions



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PRAYER : Criminal Original Petitions filed under Section 482 of the Criminal Procedure Code seeking to call for the records and quash the FIR registered in Crime No.14/2019 dated 17.10.2019 as against the petitioner, pending investigation on the file of the first respondent Police.

For Petitioners : Mr.Sathish Parasaran, Senior counsel
(in each of the petitions) for M/s.K.M.D.Muhilan

For R1 : Mr. M.V.Ramachandramurthi
(in both of the petitions) Additional Public Prosecutor
(Pondicherry)

For R2 : No appearance

COMMON ORDER

These Original Petitions have been filed to quash the proceedings in Crime No.14 of 2019 dated 17.10.2019 for the alleged offences under Sections 409, 420, 468 and 471 r/w 34 of Indian Penal Code.



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2. The petitioners are arrayed as A3 and A4 in the impugned FIR. The third Accused (petitioner in Crl OP No.30509 of 2019) is working as Senior Executive in the Investor Service Centre (ISC) of M/s.Multi Commodity Exchange of India Ltd., (hereinafter referred to as 'MCX') at Chennai. The fourth Accused (petitioner in Crl OP No.30511 of 2019) is the President of Investor Grievances Redressal Committee (hereinafter referred to as "IGRC")

3. It is alleged in the FIR that the Defacto Complainant had invested substantial money in a concern called Great Ventures; that Great Ventures were involved in the business of commodity Trading; that Great Ventures had misappropriated his money and had done transactions without his consent and; that some transactions have been traded in platforms other than MCX. Thus, according to the Defacto Complainant, he had lost huge money because of the acts of the said Company Great Ventures and approached the Authorities/ Officials of MCX, Chennai; that the third accused, who was the Senior Executive had arranged for referring the matter to the Investor Grievance Redressal Committee which was presided over by



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the 4th accused; that the 3rd and 4th accused had not applied their mind and without hearing the Defacto Complainant had rejected the complaint of the Defacto Complainant; that thereafter the Defacto Complainant approached SEBI and the SEBI Authorities had also rejected his complaint. Aggrieved by the same, he had lodged the impugned FIR against Great Ventures, its Managing Director and the petitioners herein.

4. (i) The learned counsel appearing for the petitioners would submit that it is true that the second respondent enrolled himself as the client of Great Ventures, who was a trading member of MCX. He would further submit that MCX is akin to a stock exchange; that the only difference is that the Members of MCX trade in commodities, whereas in a stock exchange they trade shares; that Great Ventures is a trading member similar to a stock broker in equities market; that the second respondent is the client of Great Ventures and; that the Great Ventures had traded on behalf of the second respondent on the MCX platform between 02.02.2016 and 26.04.2016.



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(ii) He would further submit that the Defacto Complainant aggrieved by the fact that Great Ventures had executed certain trades without his consent and have not made payment in spite of his request, had complained to the MCX Authorities; that the 3rd accused who was working as Senior Executive in the Investor Service Centre guided the second respondent to the Investor Grievance Redressal Committee (IGRC) which was presided over by the 4th accused; that the 4th accused had independently gone into the complaint and the documents furnished on either side and passed a quasi judicial order dated 13.06.2016; that the 4th accused found that the complaint filed by the second respondent has no basis and dismissed the complaint; that if he is aggrieved by the orders passed by the 4th accused, he could initiate Arbitration in accordance with the circular issued by SEBI. Thus, he submitted that the petitioners have been unnecessarily arrayed as accused. The second respondent has to establish his case in the manner known to law. A criminal action is sought to be initiated for passing a quasi judicial order which was not in the favour of the second respondent. Thus,



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he submitted that the impugned FIR as against the petitioners is an abuse of process of law and prayed for quashing of FIR as against them.

5. The learned Additional Public Prosecutor, Pondicherry would submit that there are allegations in the impugned FIR and only an investigation would bring out the involvement or otherwise of the petitioners in the offences. The learned Additional Public Prosecutor would further submit that the impugned FIR states that the complaint filed by the second respondent was rejected by SEBI and they have written to the SEBI to ascertain the facts leading to the filing of the impugned FIR. The learned Additional Public Prosecutor therefore prayed for dismissal of the quash petition.

6. Though notice was served on the second respondent none has entered appearance for the second respondent.

7. A reading of the FIR would show that a company by name Great Ventures had traded on behalf of the Defacto Complainant. Allegedly they



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had traded without his consent and had not made payment whenever demanded by him. It is also alleged that Great Ventures did not give him proper statement of accounts and they had also traded in platforms other than MCX which was improper. The allegations against these petitioners are that they had decided the second respondent's complaint in favour of Great Ventures. There is nothing in the impugned FIR to show as to how they had committed cheating, misappropriation or forgery as alleged in the FIR. A quasi Judicial order passed by the 4th accused unfortunately is sought to be projected as a criminal act. The third accused is said to have facilitated the commencement of the proceedings before the Investor Grievance Redressal Committee (IGRC). As against him except for a bald averment that he along with the 4th accused had decided his complaint without giving any opportunity to him, there is no other allegation.

8. Another fact that is found in the FIR is that the Defacto Complainant had given a complaint to the SEBI and the said complaint was closed. Besides the above, the Defacto Complainant is entitled to initiate Arbitration proceedings, if he is aggrieved by any decision taken by the



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Grievance Committee. In a case of this nature the respondent ought to have conducted preliminary enquiry to ascertain as to whether any offences are disclosed as against these petitioners at least. The respondent Police ought to have been careful in entertaining the complaints of this nature since pendency of FIR itself is likely to cause hardship and ignominy to persons like the petitioners.

9. The impugned FIR is not only malafide, but it is a clear case of an abuse of process of law. Even if the entire allegations are accepted to be true, no offences are made out as against the petitioners. Hence the impugned FIR as regards the petitioners is quashed and the Criminal Original petitions are allowed. Consequently, the connected miscellaneous petitions are closed.

29.03.2023

jv/ay

Index: Yes/No

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Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

1. The Inspector of Police,
Union Territory of Puducherry
Crime Investigation Department, Puducherry,
2nd Floor, New Police Complex,
Gorimedu, Puducherry 605 006.

2. The Public Prosecutor
High Court of Madras,
Chennai.



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SUNDER MOHAN, J.

Jv/ay

Pre Delivery order in
Criminal Original Petition Nos.30509 & 30511 of 2019
and
Crl.M.P. Nos.16533 & 16534 of 2019

29.03.2023