



Crl.O.P.No.31029 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

Crl.O.P.No.31029 of 2019

and

Crl.M.P.No.16893 of 2019

V. Hari Haran
Administrator / Managing Partner,
M/s. Great Ventures,
No.2-B, Jhanavi Heights,
Babu Jagan Street, Kanna Bala Nagar,
Arumbakkam, Chennai – 600 106.

...Petitioner / A1

-Vs-

1.The Inspector of Police,
CBCID, Police Station,
Puducherry.

... 1st Respondent / Complainant

2.Ganesh. T

... 2nd Respondent / Defacto Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the FIR in Crime No.14 of 2019 on the file of the 1st respondent and to quash the same.



Crl.O.P.No.31029 of 2019

For Petitioner : Mr. S. Diwakar
For R1 : Mr. K. S. Mohan Das,
Additional Public Prosecutor,
Puducherry.
For R2 : No appearance

ORDER

This Criminal Original Petition has been filed seeking to quash the FIR in Crime No.14 of 2019 on the file of the 1st respondent, for the offence under Sections 34, 409, 420, 468 and 471 IPC.

2.The petitioner herein is arrayed as A1 in the impugned FIR.

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 act of the said



Crl.O.P.No.31029 of 2019

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 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 petitioner.

4.The learned counsel for the petitioner would submit that the transactions took place through the trading platform MCX only. According to the petitioner, the defacto complainant had already received a sum of Rs.14,69,700/- out of the amount of Rs.20,11,000/- invested by him. There was a balance of approximately Rs.10,00,000/-, in the account, which was settled in his favour. The allegation do not attract any of the offences alleged in the impugned FIR. In any case, the second respondent has approached IGRC, which was presided over by



Crl.O.P.No.31029 of 2019

the fourth accused. The IGRC had independently gone into the complaint and passed a quasi judicial order dated 13.06.2016 and found that the complaint filed by the second respondent was without basis and further, observed that if the second respondent aggrieved by any of the order passed by the fourth respondent, he could initiate arbitration in accordance with the circular issued by SEBI. The petitioner sought to be implicated unnecessarily when there is a specific finding by the IGRC, that the second respondent's claim is without any basis.

5.The learned counsel for the petitioner submitted that this Court by order dated 29.03.2023 had quashed the proceedings as against the A3 (Senior Executive in the Company) and A4 (Member of IGRC) in Crl.O.P.Nos.30509 & 30511 of 2019. Hence, he prayed for quashing of the impugned proceedings.

6.The learned Additional Public Prosecutor appearing for the 1st respondent would submit that there are allegations in the impugned FIR and only an investigation would bring out the involvement or otherwise of the petitioner in the offences. The learned Public Prosecutor further



Crl.O.P.No.31029 of 2019

submitted that the impugned FIR states that the complaint filed by the second respondent was rejected by SEBI and the petitioner they have written to the SEBI to ascertain the facts leading to the filing of the impugned FIR. The learned Public Prosecutor therefore prayed for dismissal of the quash petition.

7.Though notice was served on the second respondent non has entered appearance for the second respondent.

8.This Court finds that on the very same set of allegations, the second respondent had approached Investor Grievance Redressal Committee (IGRC), which was headed by the fourth accused. The IGRC held that the second respondent's case is not sustainable. The IGRC also recommended the second respondent to invoke an arbitration clause. However, the second respondent had not invoked any arbitration proceedings and had chosen to approach the police alleging misappropriation. This Court finds, that the second respondent aggrieved by the closure of the complaint by IGRC, had approached SEBI and SEBI had closed the complaint initiated by the second respondent. This



Crl.O.P.No.31029 of 2019

fact is admitted in the FIR. Taking note of the above facts, this Court had quashed the proceedings as against the third and fourth accused. This Court finds the impugned FIR as against the petitioner is also unsustainable. This Court in an earlier quash petition filed by A3 and A4 in Crl.O.P.Nos.30509 & 30511 of 2019 dated 29.03.2023 had observed as follows:

“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 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



Crl.O.P.No.31029 of 2019

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unfortunately is sought to be projected as a criminal act.

The 3rd 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 Grievance Committee. In a case of this nature respondent ought to have conducted preliminary enquiry to ascertain as to whether any offence 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



Crl.O.P.No.31029 of 2019

petitioners.

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The above observations apply to the case of the petitioner also.

9.The impugned FIR is not only malafide, but it is also an abuse of process of law. Even if all the allegations are accepted to be true, no offence is made out as against the petitioner. Hence, the impugned FIR is quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Criminal Miscellaneous Petition is closed.

19.06.2023

smv

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

To,

1.The Inspector of Police,
CBCID, Police Station,
Puducherry.

2.The Public Prosecutor,
High Court of Madras.



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Crl.O.P.No.31029 of 2019

SUNDER MOHAN,J.
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Crl.O.P.No.31029 of 2019

19.06.2023