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Crl.O.P.No.25044 of 2018



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2023

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.25044 of 2018

and

Crl.M.P.No.14132 of 2018

R.D.Rajasekar

... Petitioner

Vs.

1.State of Tamil Nadu,
Represented by the Inspector of Police,
E-3, Teynampet Police Station,
Chennai – 18 (Cr.No.262/2009)

2.M.Rajendran

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, calling for the records relating to the C.C.No.4906 of 2018 on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai – 15 and quash the same insofar as the petitioner (2nd Accused) is concerned.

For Petitioner

: Mr.M.Ravi

For R1

: Mr.L.Baskaran, Public Prosecutor

For R2

: Mr.K.P.Anantha Krishna



ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.4906 of 2018 on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai – 15.

2. There are totally 2 accused and the petitioner has arrayed as A2. The A1 has already died and the entire charge has been abated. The case of the prosecution is that on 04.04.2009, the second respondent / defacto complainant had lodged a complaint before the respondent police by stating that he being the Managing Director of M/s.Raj Television Network Limited, had entered into an agreement on 21.05.2008 with M/s.Take One Entertainment, represented by Mr.Augustine Peter / A1 and the petitioner / A2 for producing a new Tamil feature film, starring Dhanush and Shreya. The total budget of the said film was arrived as Rs.9,00,00,000/-. The A1 and A2 have jointly received a sum of Rs.14,66,010/- vide Cheque No.129548 dated 25.08.2008 towards advance for the said agreement. However, they have not commenced the shooting of the said film as per the said agreement and also did not return the money. However, after several reminders, the A1 and A2 have returned the amount of Rs.5,00,000/- and gave an undertaking that they will return the remaining amount of Rs.10,00,000/- with



accrued interest and the same has not been returned so far. Therefore, the second respondent/de-facto complainant lodged a complaint before the respondent police, which has been registered in Crime No.262 of 2009 for offences under Sections 420 and 506(ii) of IPC.

3. On perusal of the entire allegation, it was found that it is only a money transaction between the petitioner and the second respondent / defacto complainant. Even according to the second respondent / defacto complainant, he had paid advance amount of Rs.15,00,000/- to the petitioner and A1 and that they had returned only a sum of Rs.5,00,000/- and they have failed to return the balance amount of Rs.10,00,000/-. Insofar as the balance amount of Rs.10,00,000/- is concerned, the second respondent / defacto complainant has also entered into an agreement with the accused on 23.05.2008. Therefore, the entire transaction appears to be civil in nature and no offence under Section 420 of IPC is made out against the petitioner.

4. It is relevant to extract Section 420 of the Indian Penal Code, which reads as follows:-



“420. Cheating and dishonestly inducing delivery of property — Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

5. The ingredients to constitute an offence under Section 420 of IPC are as follows :-

(i) A person must commit the offence of cheating under Section 415 and

(ii) The person cheated must be dishonestly induced to (a) deliver property to any person or (b) make, alter or destroy valuable security or anything signed or sealed and capable of being converted into valuable security.

Cheating is an essential ingredient for an act to constitute an offence under Section 420 of IPC.

6. In order to attract the offences under Section 420 of IPC, there must be dishonest inducement to the person deceived to deliver any property. In the case



on hand, admittedly the petitioner borrowed a sum of Rs.15,00,000/- and also repaid a sum of Rs.5,00,000/- and therefore, the offence under Section 420 of IPC is not at all made out as against the petitioner.

7. Insofar as the offence under Section 506(i) of I.P.C is concerned, to attract the offence, threat and intention to cause an alarm are main ingredients. The third ingredient is that the intention must be to cause any person to do any act which he is not legally bound to do or to omit to do any act which that person is legally entitled to do, subsequent to the main ingredients. Whereas in the case on hand, even according to the case of the prosecution, the alleged threats issued by the petitioner were only empty threats and they had no effect on the complainant.

8. Section 506 of the Indian Penal Code, reads as follows:-

506. Punishment for criminal intimidation — *Whoever commits, the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;*

9. In this regard, It is relevant to rely upon the judgment of this Court made in **Crl.O.P.(MD)No.11030 of 2014** in the case of **Abdul Agis Vs. State through the Inspector of Police**, which reads as follows:-



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“7.It is seen from the statements recorded under Section 161(3) of Cr.P.C. of the second respondent/ defacto complainant that it does not contain any obscene words, which were uttered by the petitioner herein and the entire allegations are very simple in nature. It is also seen from the statement of one Uthami, that the petitioner threatened the defacto complainant with dire consequences when he dashed the defacto complainant. The entire allegations are trivial in nature. Further, to attract the offence under Section 506(i) of I.P.C., there was a threatening only by words. As pointed by the learned counsel appearing for the petitioner, the threat should be a real one and not just a mere word when the petition uttering does not exactly mean what he says and also when the person to whom threat is launched does not feel threatened actually. Therefore, the offences under Sections 294(b) and 506(i) of I.P.C. are not made out as against the petitioner herein and also the entire criminal proceedings is clear an abuse of process of Court. Therefore, this Court is inclined to quash the entire proceedings.”

10. In view of the above discussion, the entire proceedings cannot be sustained as against the petitioner and it is liable to be set aside. Accordingly, the proceedings in C.C.No.4906 of 2018 on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai – 15 is hereby quashed.



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11. Accordingly, this Criminal Original Petition stands allowed.

Consequently, the connected Miscellaneous Petition is closed.

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1. The Inspector of Police,
E-3, Teynampet Police Station,
Chennai – 18 (Cr.No.262/2009)

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



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G.K.ILANTHIRAIYAN, J.

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