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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.No.7640 of 2024
and
Crl.MP.Nos.5539 and 5542 of 2024

1. Ponnusamy Vijayaraj
2. Thangaraj Jeyakumar
3. Zahir Hussain ... Petitioners

Vs.

Union of India
Rep through Mr.S.Krishnan
Assistant Director,
Serious Fraud Investigation Office,
Ministry of Corporate Affairs,
Government of India,
Regional Office-Chennai,
Ground Floor,Corporate Bhavan,
29. Rajaji Salai, Chennai. ... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleased to call for the entire records pertaining to EOCC.No.173 of 2016, pending on the file of the Additional Chief Metropolitan Magistrate/Economic Offences-I at Chennai and quash the same as illegal, incompetent and ultra vires.

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For Petitioner : Mr.P.Thangavel

O R D E R

The petitioners herein are A6, A7 and A9 in EOCC.No.173 of 2016 on the file of the learned Additional Chief Metropolitan Magistrate/Economic Offences-I at Chennai.

2. The petition under Section 482 of Cr.P.C is filed to quash the complaint on the ground that the complaint does not disclose any offence attracting prosecution as against these petitioners. They are not the Directors of the PAPL (Paramount Airways Pvt Ltd) and they are not aware of the transaction of the day to day affairs or administration of that company under liquidation. Only pursuant to the direction of this Court passed in an application for liquidation the Company jurisdiction, the case has been registered by the Serious Fraud Investigation Office.

3. By observing that, the liability of the company at the time of presenting the winding up proceedings was around Rs.600 Crores and company has availed loan for more than Rs.450 Crores. The balance sheet as on 31.03.2009 has shown the fixed asset of the company to the

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tune of Rs.18 crores, but, that fixed asset had come down to almost nil within a period of three years i.e., end of 2011. Therefore, the disappearance of the fixed asset is the matter is very serious concern to be probed by the appropriate authority. Till then, there was nothing against these petitioners and even thereafter just because they did not participate in the enquiry proceedings and responded to the summons issued by the Serious Fraud Investigation Unit, they have been arrayed as accused.

4. The learned counsel appearing for the petitioners reading the portion of the complaint would submit that nowhere, the role of the petitioners for disappearance of the fixed assets of PAPL been disclosed and therefore the case against the petitioners has to be quashed. He would also submit that few of the other accused, who are not the Directors of PAPL had approached this Court and case against them been quashed.

5. This Court after going through the complaint and the materials relied upon by the prosecution to proceed against these petitioners find that it is not a case of the prosecution that these three petitioners as Directors of PAPL had committed fraud and violated the Company Act.

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6. The summon substances of the complaint indicates that one Thiagarajan is the prime brain behind this floating of Paramount Airlines Private Limited, Paramount Navigation Private Limited and other sister concern had availed loan without proper security and by other fraudulent means for more than Rs.600 Crores. The funds which has been raised through bank loan been diverted to the other associate companies floated by the said Thiagarajan.

7. These petitioners are Directors of the Associate Companies. The diversion of the money cheated had been taken note by this Court under Company jurisdiction and has directed the Serious Fraud Investigation Agency to probe into it and the probe has disclosed the involvement of the three petitioners who are not only the Directors of the sister concern, but the flow of money from the PAPL to these sister concern been found in the course of the investigation.

8. The complaint in Paragraph No.14 would say that after taking permission from the competent authority, " the team wrote letters to the present and past Directors of the Associate Company on 03.12.2014 to furnish the details also to produce the relevant records, Page No.65 in

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findings No.8 shows the name of the associate/group company along with the details of present and past Directors were summoned on 12.11.2014 to produce the relevant documents and to appear before the Serious Fraud Investigation Office, the investigation team on or before 30.11.2014.

9. The complaint further states that despite receiving the summons, these petitioners did not actively participate in the enquiry and they did not furnish the informations sought for by the investigating agency. Further, in the complaint at Paragraph No.17 e , it is stated that Thiagarajan, the prime accused had misappropriated the funds belonging to the Company in the name of payment of Lease Rentals - Engine access through its subsidiary company abroad by the name Golden Lotus Leasing Corporation or Golden Lotus Leasing Corporation Limited by submitting fabricated and fraudulent documents. The documents were submitted knowingly well that PAPL does not lease any aircraft engine.

10. The said Thiagarajan had fraudulently sold the current assets of aircraft spares and stocks by way of export and the sale proceeds were received through associate company accounts namely PFSPL and PFRPL and later misappropriated.

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11. The role of these petitioners as persons involved in the affairs of PFSPL and PFRPL is now incriminating material to prosecute them. Therefore, this Court does not find any merits in this quash petition. The petitioners have to prove their innocence if any during the course of trial and the Court cannot look into actual aspects in a quash petition. Hence, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

12. However, the observations and findings in the petition is restricted for disposal of the quash petition and will have no bearing in deciding the main case.

Vv **04.04.2024**

To

1. The Additional Chief Metropolitan Magistrate/
Economic Offences-I, Chennai.

2. Mr.S.Krishnan
Assistant Director, Union of India,
Serious Fraud Investigation Office,
Ministry of Corporate Affairs,
Government of India,
Regional Office-Chennai,
Ground Floor,Corporate Bhavan,
29. Rajaji Salai, Chennai.

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

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Dr.G.JAYACHANDRAN,J.

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