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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

**WP.No.12645 of 2024
and
WMP.No.13798 of 2024**

Naveen Jain

... Petitioner

1.The Assistant Commissioner of Police,
Adyar Range,
Adyar,
Chennai 600 090.

2.M/s.Sri Brindhavan Brick Works
Rep by its Partner M. Babu
No.311, Selvi Jayakumar Street, Golden George Nagar
Nerkundram, Chennai – 600 107.
and residing at
No.91B, Selvi Jayakumar Street, Golden George Nagar
Nerkundram, Chennai – 600 107.

3.Ashish Vyas
(Resolution Professional of
M/s.Maana Sarovar Properties Pvt.Ltd.,)

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for records in C.No.6022/COP/VS/2023 and C.No.612/DCA/COP/2023 on the file of the 1st respondent Assistant Commissioner of Police, Adyar



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Range, Adyar, Chennai -600090 and quash the same, and subsequently issue directions to the 1st respondent Assistant Commissioner of Police, Adyar Range, Adyar, Chennai – 600090 to not harass the petitioner herein in the light of moratorium placed on M/s.Maana Sarovar Properties Pvt.Ltd as per Section 14 of Insolvency and Bankruptcy Code, 2016.

For Petitioner : Mr.K.Sakthivel
For Respondents : Mr.K.M.D.Muhilan for R1
Government Advocate (Crl.Side)
Mr.M.Suresh for R2

ORDER

Writ Petition is filed seeking direction from the first respondent police alleging that they are harassing him on the complaint given by the 2nd respondent. After hearing the parties, including the learned Government Advocate (Crl.Side) and the complainant/1st respondent, this court on 07.06.2024 has passed the following order:

“The petitioner herein claiming an Ex.Director of the Management Board of M/s.Maana Sarovar Properties Pvt.Ltd., which is under C.I.R process and subject matter of the proceedings before the N.C.L.T, is before this Court seeking protection from participating in the investigation initiated by the respondent police on the complaint given by one Babu on 14.02.2024 and registered in C.S.R.No.90 of 2024. The summons issued



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under Section 160 Cr.P.C. calling upon the petitioner to participate in the enquiry on 10.04.2024 being interfered by an order of interim injunction passed by this Court on 08.05.2024.

2. When the matter was taken up for consideration today, the learned counsel appearing for the petitioner sought time.

3. The learned counsel appearing for the second respondent/ defacto complainant Babu submitted that submitting 10 title documents to the company represented by the petitioner herein, loan of Rs.25,00,000/- was borrowed and since the petitioner Company is now the subject matter of resolution before the NCLT, the defaco complainant is ready to repay the money and redeem his property getting back the original documents of the title deed. Instead of participating in the enquiry and handing over the title document, the petitioner is evading to disclose the custody of the title documents of the defacto complainant.

4. The learned Government Advocate (Crl.Side) submitted that the respondent/police summoned the petitioner thrice to participate in the enquiry, but, instead of participating in the enquiry, the petitioner approached this Court. If the petitioner



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appears before the respondent police to participate in the enquiry, the respondent police can proceed further in the investigation on the complaint given by the second respondent.

5. The learned counsel appearing for the petitioner, in response, would submit that the respondent police, on his appearance, may harass the petitioner and take action on the investigation on the instigation of the third parties.

6. This Court on the face of the documents does not find any reason to entertain the plea of the petitioner regarding the apprehension expressed. From the affidavit filed along with the Writ Petition, it is clear that title documents of the defacto complainant were entrusted with the Company by name M/s.Maana Sarovar Properties Pvt.Ltd., in which, the petitioner was the Director. In the affidavit, it is also stated that the original documents, which were in possession of M/s.Maana Sarovar Properties Pvt.Ltd., were handed over to the third respondent namely, Shri.Ashish Vyas, Resolution Professional appointed by N.C.L.T. If it is so, the petitioner need not shy to produce the records regarding the custody of the title documents of the defacto complainant.

7. In view of the above, the petitioner shall



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appear before the respondent police on 12.06.2024 and furnish the information regarding custodial of the original title deeds. On the appearance of the petitioner, the respondent police shall enquire the matter in accordance with law.

For further orders, list the matter on 14.06.2024.”

2. When the matter is listed today, learned Government Advocate (CrI.Side) submitted that the petitioner herein appeared before the 2nd respondent on 13.06.2024. He was served with questionnaire including the information regarding the original document of the 2nd respondent which has been handed over to the M/s.Maana Sarovar Properties Pvt.Ltd., in which, the petitioner is a former Director. For the said question, the petitioner has not given any clear answer and that answer is contrary to the information furnished by the Resolution Professional before the NCLT.

3. Learned counsel for the petitioner submits that under Section 14 of the IPC 2016, there is a moratorium which protects transfer of property which is the subject matter of the proceedings and therefore,



even assuming the documents said to be with possession of the petitioner

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is true, the same cannot be parted way. This court is unable to countenanced his arguments. Under Section 14 of IPC, primarily imposes the moratorium for transfer of title of any property which is the subject matter of the proceedings which will defeat the interest of the creditors. Refusal to produce the documents for investigation does not fall under the umbrella of moratorium. Therefore, this court finds that the reason stated by the petitioner herein to refuse production of documents and seek protection from police is, untenable, imaginary and under the guise of this writ petition, the petitioner wants to screen the documents which is the subject matter of the investigation. Hence, this Writ Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

26.06.2024

Index: Yes/No

Speaking/Non-speaking order: Yes/No

Neutral Citation: Yes/No

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



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Dr.G.JAYACHANDRAN,J.

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