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Crl.R.C.No.60 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.60 of 2024

Kompanero,
ASG Leather Private Limited,
Shop No.S122, First Floor,
Express Avenue Mall,
17, Pattullos Road, Espress Estate,
Thousand Lights,
Chennai – 600 002
Rep. by its Area Manager,
Mr.Akshay Mogha.

... Petitioner

Vs.

State rep. By
The Inspector of Police (L&O),
D2 Police Station,
Anna Salai,
Chennai – 600 002.

... Respondent

Prayer: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to call for the records in Crl.M.P.No.20102 of 2023 on the file of the II Metropolitan Magistrate Court, Egmore and set aside the order passed by the II Metropolitan Magistrate, Egmore, in



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Crl.M.P.No.20102 of 2023 dated 30.06.2023 and consequently direct the second respondent to register FIR based on the petitioner's complaint dated 22.02.2023.

For Petitioner : Mr.D.Vijay Krishna
For Respondent : Mr.R.Kishore Kumar
Government Advocate (Crl. Side)

ORDER

This Criminal Revision Petition is filed to set aside the order passed by the learned II Metropolitan Magistrate, Egmore, in Crl.M.P.No.20102 of 2023 dated 30.06.2023 and consequently direct the second respondent to register FIR based on the petitioner's complaint dated 22.02.2023.

2.The petitioner, Area Manager of ASG Leather Private Limited lodged a complaint with the respondent police on 22.02.2023. The complaint is that the petitioner Company is involved in tanning, manufacturing and selling of leather bags, wallets and other accessories all over India and their Company presence is Pan India. In Express Avenue Mall, Chennai, they have a showroom and functioning for the past three



years with ten employees. One Roopalai Lama, a resident of Velachery was working at the Branch and handling cash deposits at the showroom. On 08.02.2023, the staff of the showroom noticed a deposit of Rs.60,000/- shortfall in Daily Sales Report, the amount not deposited to the Company's account and the said Roopalai Lama was not in a position to give any proper explanation. The entire accounts verified. On 17.02.2023, it was found that the said Roopalai Lama misappropriated and cheated the Company to the tune of Rs.1,41,472/-. Thereafter, complaint was lodged but the respondent police failed to take action. Hence, representation was sent to the higher officials, but thereafter too, no action was taken. Hence, the petitioner filed a complaint under Section 156(3) Cr.P.C. before the learned II Metropolitan Magistrate, Egmore in CrI.M.P.No.20102 of 2023 seeking direction to register FIR. The Trial Court by order dated 30.06.2023 dismissed the complaint. Against which, the present revision petition is filed.

3.The contention of the learned counsel for the petitioner is that the Trial Court given its own finding that to arrive at shortage, there should be receipts and payments which are to be reflected in a trial balance, but in this



case the trial balance has not been produced by the petitioner, which is not proper. Further, no internal audit report and external audit report has been produced for confirming the cash shortage. He would further submit that the details as to whether the said Roopalai Lama is employed with the petitioner, what is his designation, appointment order, ESI, Provident Fund, etc has been sought for, which is not required. He further submitted that since the petitioner produced the CCTV recordings of the showroom showing that the said Roopalai Lama is employed in the showroom and was handling the cash which was not considered. Thus the finding of the Trial Court is not proper. Hence, he prayed for setting aside the impugned order.

4.The learned Government Advocate (CrI. Side) filed a status report with regard to the enquiry conducted by the respondent police in C.S.R.No.48 of 2023. The respondent police examined one Nawasulla, Manager in ASG Leather Private Limited, recorded his statement and he was asked to produce the relevant documents such as sales receipt, bills, stock register, employment particulars of the said Roopalai Lama and other details. Though the said Nawasulla took time to produce the documents but



he failed to do so, hence no action could be taken and C.S.R.No.48 of 2023 was closed on 01.07.2023. In the meanwhile, the petitioner approached the Trial Court by filing a petition under Section 156(3) Cr.P.C. and the Trial Court dismissed the same. He further submitted that the order of the Trial Court is proper and the petitioner without producing the details forcing the respondent police to register FIR and to conduct investigation does not merit consideration.

5.Considering the submissions made and on perusal of the materials, it is seen that the impugned order is a detailed one wherein the Trial Court had clearly stated that to arrive at shortage of cash, the receipts and payments as shown in the trial balance has to be produced but in this case it is not done so. Further, no audit report had been produced and the appointment particulars of the said Roopalai Lama also not produced. Hence, the Trial Court dismissed the petition filed by the petitioner. The order of the Trial Court is a detailed one. In view of the same, this Court finds no reason to interfere with the order of the Trial Court.



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6. Accordingly, the Criminal Revision Petition stands dismissed. The contention of the petitioner is that he has CCTV footages to confirm about Roopalai Lama misappropriating a sum of Rs.1,41,472/-. If that be so, the petitioner is at liberty to produce the same along with 65B Certificate and other relevant documents and can file a private complaint under Section 200 Cr.P.C., is so advised.

19.02.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
cse



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To

- 1.The Inspector of Police (L&O),
D2 Police Station,
Anna Salai,
Chennai – 600 002.
- 2.The II Metropolitan Magistrate,
Egmore.



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