



Crl.O.P.No.6220 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 17.02.2025

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.6220 of 2023

63 Moons Technologies Ltd.,
Formerly Known as
M/s.Financial Technologies (India) Pvt Ltd.,
Rep. by its Authorized Signatory Mr.D.John Deepak,
Having its Registered Office at
Shakthi Tower-1, 7th Floor,
Premises E, 766, Anna Salai, Thousand Lights,
Chennai – 600 002.

.. Petitioner

Vs.

N.Sundaresha Subramanian,
Bennett Coleman & Company Ltd.,
FC-6, Film City, Sector 16A,
Noida – 201 301.

.. Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C,
praying to call for the records in Crl.R.C.No.19 of 2020 on the file of the
Principal Sessions Judge, Chennai, and set aside the order dated
02.11.2022.

For Petitioner : Dr.P.H.Manoj Pandian
for M/s.M.Vijaya Mehanath

For Respondent : Mr.D.Vivekanandan
for Mr.S.Vijayaraghavan



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ORDER

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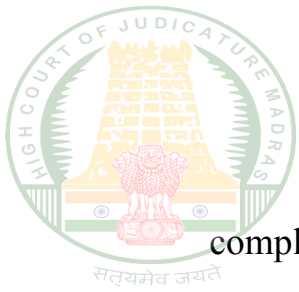
2.By an order dated 02.11.2022 thereby allowed the revision filed by the respondent challenging the order of taking cognizance in C.C.No.6819 of 2019, for the offences under Sections 499, 500 & 501 of IPC. The petitioner lodged a private complaint for the offences punishable under Sections 499, 500 & 501 of IPC. After taking sworn statement of the petitioner, the Court had taken cognizance for the offences punishable under Sections 499, 500 & 501 of IPC and issued summons to the respondents. It was challenged by the respondent by way of revision in Crl.R.C.No.19 of 2020 on the ground that there was no enquiry under Section 202(2) of Cr.PC by the Trial Court and before issuance of summons to the petitioner. Since the respondent is having address at Noida, Uttar Pradesh, the learned counsel for the petitioner would submit that when the accused is having address outside the jurisdiction of the Trial Court, the Trial Court necessarily to conduct an enquiry by the Trial Court or by the police. It is mandatory and not merely directory in nature. It is curable defect and the Revisional Court



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ought not to have dismissed the entire complaint when the procedural lapse on the part of the Trial Court. The proper course is only to direct the Court to take up the matter afresh and pass orders by following the procedure contemplated under Section 202 of the Cr.PC.

3.The learned counsel for the respondent would submit that the order of taking cognizance was set aside by the Revisional Court not only on the ground of procedure contemplated under Section 202 was not followed and also on other grounds that the respondent was described as an editor corporate and regulatory office of “ET Prime”. Whereas the complainant stated in his sworn statement that the respondent is an editor in ET Now and that he had written articles defamating the Company and its Chairman. Therefore, this contradictory statement would vitiate the entire trial and the Trial Court ought not to have taken cognizance on the complaint lodged by the petitioner herein. Further, the respondent as the Editor of Economic Times cannot be held responsible for the articles that were published in the Business Standard. In particular, neither the complainant nor the complaint has leveled acquisitions as against the respondent in his capacity as an Editor and the Journalist in the Newspaper Business Standard. There is no specific acquisitions in the



complaint or in the sworn statement in the complaint as against the respondent with regards the publishing any defamatory articles in 'Economic Times', 'ET Now' or in the 'Times of India' in the capacity of Editor.

4. Admittedly the respondent is having address at outside the jurisdiction of the Trial Court namely the XIV Metropolitan Magistrate, Chennai. It is relevant to extract the provision of Section 202 of Cr.PC.

“202. Postponement of issue of process.—(1) Any Magistrate, on receipt of a complaint of an offence of which he is authorised to take cognizance or which has been made over to him under section 192, may, if he thinks fit, 1 [and shall, in a case where the accused is residing at a place beyond the area in which he exercises his jurisdiction,] postpone the issue of process against the accused, and either inquire into the case himself or direct an investigation to be made by a police officer or by such other person as he thinks fit, for the purpose of deciding whether or not there is sufficient ground for proceeding:

Provided that no such direction for investigation shall be made,—

(a) where it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session; or

(b) where the complaint has not been made by a Court, unless the complainant and the witnesses present (if any) have been examined on oath under section 200.



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(2) In an inquiry under sub-section (1), the Magistrate may, if he thinks fit, take evidence of witnesses on oath:

Provided that if it appears to the Magistrate that the offence complained of is triable exclusively by the Court of Session, he shall call upon the complainant to produce all his witnesses and examine them on oath.

(3) If an investigation under sub-section (1) is made by a person not being a police officer, he shall have for that investigation all the powers conferred by this Code on an officer in charge of a police station except the power to arrest without warrant."

5.Thus, it is clear that the duty of the Magistrate after receiving the complaint to find out if there is any matter which calls for investigation by a Criminal Court. The scope of enquiry under this provision is restricted only to find out the very errors in the order at the time where the process has to issues or under investigation under Section 202 is different from investigation contemplated under Section 156 of Cr.P.C. As it is only for holding the Magistrate to decide whether or not there is sufficient ground for the Magistrate to proceed further. Thus, the scope of Section 202 of Cr.PC is therefore limited to the ascertainment to the truth or false or the allegations made in the complaint. This provision was amended by the amended Act, 2005 and inserted the words 'that' and 'shall' in the case where the accused is residing beyond the area in which



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exercise his jurisdiction. Therefore, the Trial Court ought to have either conduct the enquiry or direct the investigation to be made by the police officer or by an other person as the Magistrate thinks fit for the purpose of deciding whether or not there is sufficient ground for proceeding when the accused is having address outside the jurisdiction of the Trial Court. However, it is curable defect by the Trial Court and for this reason, the complaint itself cannot be dismissed.

6.In view of the above, the order passed in Crl.R.C.No.19 of 2020 dated 02.11.2022 cannot be sustained and is liable to be quashed and accordingly quashed. The matter is remanded back to the Trial Court to conduct an enquiry and pass orders afresh after complying the procedure as contemplated under Section 202 of Cr.P.C.

7.Accordingly, this Criminal Original Petition stands allowed.

17.02.2025

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No



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To

- 1.The Principal Sessions Judge,
Principal Sessions Court,
Chennai.

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



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G.K.ILANTHIRAIYAN, J.

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