



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF JUNE, 2023

BEFORE

THE HON'BLE MR JUSTICE SACHIN SHANKAR MAGADUM

CRIMINAL PETITION NO.416 OF 2018

BETWEEN:

1. SRI RAJARAM
S/O.V.SRIRAMULU
AGED ABOUT 62 YEARS
RETIERED GENERAL MANAGER
2. SRI ASHISH MAJUMDAR
S/O NAKULESHWAR
AGED ABOUT 54 YEARS
GENERAL MANAGER AT PINJORE UNIT
PUNJAB
3. SRI LAKSHMI NARASIMHA
S/O NARASIAH
AGED ABOUT 60 YEARS
GENERAL MANAGER (MBX)
4. SRI M ARUNACHALAM
S/O.L.T.MUNISWAMY
AGED ABOUT 58 YEARS
RETIRED JGM
5. SRI D K GARG
S/O.JAGADISH PRASAD GARG
AGED ABOUT 58 YEARS
DGM(PR)
6. SRI HARIPRASAD
S/O SRI.M KATHIRVELU
AGED ABOUT 53 YEARS
MANAGER (SC)

Digitally
signed by
ALBHAGYA
Location:
HIGH COURT
OF
KARNATAKA



7. SRI MOHANRAJ
S/O ARJUNAN
AGED ABOUT 60 YEARS
RETIRED JGM (MM)

8. SRI SRINIVASARAJU
S/O LATE VENKASWAMY
AGED ABOUT 58 YEARS
RETIRED DGM (MM)

ALL ARE OFFICERS AND OFFICIALS OF
ACCUSED NO.1 COMPANY
I.E., M/S. HINDUSTAN MACHINE TOOLS LTD.,
JALAHALLI
BENGALURU - 560 013

...PETITIONERS

(BY SRI. SRINIVAS N, ADVOCATE)

AND:

1. STATE OF KARNATAKA BY
JALAHALLI POLICE STATION
BENGALURU -560 013
2. M/S. SHRI SHAKTHI INDUSTRIES
REPRESENTED BY ITS PROPRIETOR
D.MANOKARAN
NO.1351, 4TH MAIN, 4TH CROSS
RAJAJINAGAR, 3RD STAGE
PRAKASHNAGAR
BENGALURU - 560 021

...RESPONDENTS

(BY SRI.VINAYAK V.S, HCGP FOR R.1;
SRI.P.NEHRU, ADVOCATE FOR R.2)



THIS CRIMINAL PETITION IS FILED U/SEC.482 CR.P.C BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO QUASH THE ENTIRE PROCEEDINGS PENDING AGAINST THEM HEREIN IN CRIME NO.149/2017 (P.C.R.NO.5018/2016) OF JALAHALLI POLICE STATION, BENGALURU CITY FOR THE OFFENCE P/U/S 420 R/W 34 OF IPC, NOW PENDING ON THE FILE OF VII ADDITIONAL CHIEF METROPOLITAN MAGISTRATE AT BENGALURU BE QUASHED SO FAR AS IT RELATES TO THE PETITIONERS ARE CONCERNED AND ETC.

THIS CRIMINAL PETITION, COMING ON FOR ADMISSION, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The captioned petition is filed under Section 482 of Cr.P.C seeking quashing of the proceedings in Crime No.149/2017 (PCR No.5018/2016) for the offence punishable under Section 420 read with Section 34 of IPC.

2. Facts leading to the case are as under;

Respondent No.2 - complainant has lodged a private complaint under Section 200 of Cr.P.C for the offence punishable under Section 420 read with Section 34



of IPC before VII Additional Chief Metropolitan Magistrate, Bengaluru in PCR No.5018/2016. The gist of the allegations in the complaint is that the complainant was supplying materials to accused No.1 - company and in terms of purchase order, accused No.1 - company was required to make payment within 45 days of delivery of materials and in some cases, the time stipulated was 60 days. It is alleged that accused Nos.2 to 9 had assured respondent No.2 - complainant that payment would be made within the stipulated time. Therefore, a private complaint is lodged on the ground that inspite of repeated phone calls and personal visits, petitioner Nos.2 to 9, who are officials of 1st petitioner - company, have been delaying the payment on one or other pretext and inspite of reminder, the outstanding money that was legally due to respondent No.2 was not made. Therefore, the present complaint is filed.

3. Pursuant to the sworn statement recorded by the learned Magistrate, matter was referred to the



Investigating Officer, who has registered a crime in Crime No.149/2017.

4. Heard learned counsel appearing for the petitioners and learned HCGP. I have given my anxious consideration to the allegations made in the complaint.

5. I have also taken cognizance of the legal notice issued by respondent No.2 - Complainant to petitioner No.1 - accused No.2. On examining the allegations made in the complaint as well as the claim made in the legal notice issued by respondent No.2 - Complainant as well as the reminder, the same would give a clear impression that allegations pertains to a breach of contract and therefore, I am more than satisfied that the dispute between the parties is essentially of civil in nature. There are absolutely no materials to substantiate the claim of respondent No.2 for having launched a criminal prosecution for the offence punishable under Section 420 of IPC. Even if the entire allegations are accepted, the



existence of dishonest or fraudulent intention, which is a requisite ingredient to prosecute a person for the offence punishable under Section 420 of IPC is found to be totally missing in the complaint as well as in the legal notice as well as reminder issued by respondent No.2 - Complainant.

6. The instant dispute certainly involves determination of issues, which are of civil in nature. Respondent No.2 - Complainant having filed a suit before Commercial Suit in O.S.No.189/2019 has lodged a private complaint alleging that petitioners are guilty of offences punishable under Section 420 read with Section 34 of IPC.

7. It is stated across the Bar that suit filed by respondent No.2 is decreed and now, the matter is seized before the Executing Court, where the parties are litigating insofar as interest part is concerned. It is not uncommon for parties to a commercial dispute in India to initiate criminal action to pressurize the other side to reach a



favourable settlement. The motivation to do so could be due to many reasons - including speedier remedies from a criminal Court and of course the threat and nuisance value of a criminal action vis-à-vis a civil one.

8. The materials on record clearly demonstrate that respondent No.2 - complainant has an efficacious remedy before the Competent Civil Court and he had already availed remedy by filing a recovery suit and therefore, I am more than satisfied that the criminal proceedings in the present case on hand are totally unwarranted. Even if the allegations are accepted in entirety, no offence is made against the petitioners. Therefore, to meet the ends of justice, I am of the view that the proceedings pending in Crime No.149/2017 (PCR No.5018/2016) of Jalahalli Police Station for offence punishable under Section 420 read with Section 34 of IPC, now pending on the file of VII Additional Chief Metropolitan Magistrate, Bengaluru are liable to be



quashed. If the proceedings are not quashed, the same would amount to abuse of process of law.

9. The complaint is also liable to be rejected in the light of the law laid down by the Hon'ble Apex Court in the case **of PRIYANKA SRIVASTAVA AND ANOTHER VS. STATE OF UTTAR PRADESH AND OTHERS¹** and the latest judgment in the case of **BABU VENKATESH AND OTHERS VS. STATE OF KARNATAKA AND ANOTHER²**, wherein the Hon'ble Apex Court has reiterated the law laid down in the case of **Priyanka Srivastava (cited above)**. The present complaint is also not supported by an affidavit. No reasons are forthcoming for having straight away invoked the jurisdiction of the learned Magistrate by filing a complaint under Section 200 of Cr.P.C for the offence punishable under Section 420 read with Section 34 of IPC. Even on this count, the learned Magistrate was not justified in entertaining a private complaint under

¹ (2015) 5 SCC 287

² (2022)5 SCC 639



Section 200 Cr.P.C. Learned Magistrate has failed to take into consideration the legal position as cited by the Hon'ble Apex Court in the case of ***Priyanka Srivastava (cited above)***. Therefore, even on this count, the proceedings are liable to be quashed. Hence, I pass the following;

ORDER

(i) The Criminal Petition is ***allowed***.

(ii) The proceedings pending in Crime No.149/2017 (PCR No.5018/2016) of Jalahalli Police Station for offence punishable under Section 420 read with Section 34 of IPC, now pending on the file of VII Additional Chief Metropolitan Magistrate, Bengaluru are hereby quashed.

(iii) Pending applications, if any, are also disposed off.

Sd/-
JUDGE