

Vahca Krishnamurthy and ors. Vs. A. Palanisami and ors.

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Court : Chennai

Decided On : Feb-15-2011

Judge : G.M. Akbar Ali, J.

Acts : Indian Penal Code (IPC) - Section 420; Code of Criminal Procedure (CrPC) (Cr.P.C) - Sections 200, 154

Appeal No. : CRL.O.P.Nos.6613 of 2010 and 30912 of 2008 and M.P.No.1 of 2010

Appellant : Vahca Krishnamurthy and ors.

Respondent : A. Palanisami and ors.

Advocate for Def. : V. Sunitha And Ors.

Advocate for Pet/Ap. : Mr.T. Munirathnam Naidu And Ors.

Judgement :

COMMON ORDER

1. Byconsent, the matteris taken up for final hearing. Crl.O.P.No.6613 of 2010 is filed to call for records in C.C.No.63/2009 on the file of the learned Chief Judicial Magistrate, Coimbatore based on a private complaint filed by the petitioner in Crl.O.P.No.30912 of 2008 for various offences and quash the same.

2. The petition in Crl.O.P.NO.30912 of 2008 is filed seeking a direction to the 1st respondent, based upon the complaint given by the petitioner dated 24.11.2008, to register a case against the respondents 3 to 6 for abducting the petitioner and also to direct the 1st respondent to recover all four cheques of the Catholic Syrian Bank, Singanullur Branch of KRA Textile bearing Nos.799792 dated 25.11.2008, 799793 dated 25.12.2008, 799794 dated 25.12.2008 and 799795 dated 25.1.2009 from the respondents 3 to 6 which were extracted from the petitioner illegally under coercion and threat. (amended as per the order of this Court dated 3.3.2010 in MP No.1 of 2010).

3. Since the parties are same and the allegation and occurrence are same, a common order is passed.

4. For convenience sake the petitioner in Crl.O.P.No.30912 of 2008 is referred as petitioner and the petitioners in Crl.O.P.No.6613 of 2010 are referred as respondents.

5. The brief facts of the case is as follows:

The petitioner is doing business in textiles under the name and style of KRA Textiles. His son Parama Guru is also doing same business, but separately. During the course of business, the petitioner's son had not repaid the amount payable to Sri Sai Baba Cotton Company, Guntoor, Harshini Cotton Company, Nadikudi Andhra Pradesh and Sri Rama Lakshmana Cotton Traders, Guntoor. Sri Sai Baba Cotton Company Guntoor had lodged a complaint before the Lalpet Police Station, Guntoor on 2.9.2008 against the petitioner's son Paramaguru and a case was registered in Cr.No.181 of 2008 for the offence punishable under Sec.420 IPC. He was arrested and remanded to judicial custody on 14.9.2008.

6. On a complaint given by Sri Harshini Cotton Company a case was registered in Cr.No.200 of 2008 by the same police under Sec.420 IPC. On 1.11.2008, the police men from Arundelpet Police Station, Guntoor along with the respondents came to Coimbatore in a vehicle bearing No. AP 7U 6201 around 11 a.m and waylaid the petitioner near Indira Nagar, 1st street, and forcibly took the petitioner to the second respondent police station and from there to Arundelpet Police

Station, Guntoor.

7. The wife of the petitioner gave a complaint to the Commissioner of Police, Coimbatore stating that the petitioner was kept under illegal custody till 4.11.2008 and was demanded to pay the due payable by his son. They have forcibly obtained blank cheques from the petitioner. He was also forced to sign in a stamp paper. The cheques were drawn on Catholic Syrian Bank, Singanullur Branch for various amounts payable to the above said Companies. The petitioner was also remanded to judicial custody and he was released on bail. However, the complaint given by the wife of the petitioner was not taken on file by the first respondent and they have not recovered the cheques forcibly obtained. Therefore, the petitioner has approached this court seeking the above said direction.

8. Meanwhile, the petitioner has also filed a private complaint under Sec.200 of Cr.P.C against the respondents, which was taken on file in CC No.63 of 2009. Aggrieved of taking cognizance of the case by the Court below, the respondents have filed the present petition in Crl.O.P.No.6613 of 2010 (petitioners herein) for quashing the same. They would contend that the case registered for the offence under Sec.420 IPC against the petitioner and his son was referred to Lok Adalat and it was settled before the Lok Adalat as it was a compoundable offence.

9. The 2nd respondent filed counter, in which it is stated that the petitioner was running a cotton mill in the name and style of "K.R.A Cotton Company". The petitioner's son was also doing business in textiles separately and during the course of the business, he had not repaid the amount due to the respondents 4 to 6. It is also stated that on 1.11.2008, policemen from Arundelpet Police Station, Guntur along with the respondents 3, 4 and 5 came and took the petitioner to Arundelpet Police Station. Since the petitioner was involved in a case in Cr.280 of 2008 for an offence under Sec.420 IPC on the file of Arundelpet Police Station, the police officials arrested the petitioner on 1.11.2008 and remanded him to judicial custody at Andhra Pradesh. Since the action was taken by the Andhra Pradesh Police under the circumstances stated above and the case is pending investigation in Andhra Pradesh, the complaint was closed by this respondent.

10. However, the learned counsel for the petitioner would submit that the petitioner was kidnapped and cheques were forcibly taken from him and a complaint was given on 24.11.2008 which was not considered by the respondent police . The learned counsel pointed out that when the allegations in the complaint makes out a prima facie cognizable offence, the respondent police is duty bound to register a First Information Report under Sec.154 of Cr.P.C.

11. The learned counsel further submitted that in the award passed by the Lok Adalat, the petitioner is not a party and therefore, the private complaint given by the petitioner should not be interfered with.

12. On the contrary, the learned counsel for the respondents would submit that the entire allegations preferred by the petitioner are the consequence of a Crime number 280 of 2008 on the file of the Arundelpet Police Station, Guntoor for the offence under Sec.420 IPC. Since the matter was settled and was compounded and an award was also passed in the Lok Adalat, nothing survives in the private complaint and there is not an iota of truth in the complaint dated 24.11.2008.

13. Heard and perused the materials available on records.

14. The allegations made in the complaint dated 24.11.2008 and the allegations made in the private complaint filed under Sec.200 Cr.P.C before the learned Judicial Magistrate Coimbatore in CC No.53 of 2009 are one and the same. Initially petition in CrI.O.P.No.30912 of 2008 was filed only with a direction to recover the cheques which were alleged to have been forcibly taken by the petitioner. Meanwhile, the petitioner seem to have filed a private complaint against the respondents on the basis of similar allegations which are pending. Therefore, nothing survives in CrI.O.P.No.30912 of 2008.

15. As far as the grounds on which the respondents seeking to quash the private complaint are concerned, this court is of the considered view that the award passed in the Lok Adalat in the matter of Cr.No.280 of 2008 has no bearing to the allegations made in the private complaint. The allegations made in the private complaint are distinct. There is no other ground raised by the respondents to quash the complaint.

16. Under these circumstances, there is no valid ground for this Court to exercise the inherent power under Sec.482 Cr.P.C to quash the proceedings in C.C.No.63 of 2009 on the file of the learned Chief Judicial Magistrate, Coimbatore. Therefore, the petition in Crl.O.P.No.6613 of 2010 is liable to be dismissed and accordingly, it is dismissed.

17. In the result, the petitioner in Crl.O.P.No.6613 of 2010 stands dismissed and as far as Crl.O.P.No.30912 of 2008 is concerned, for reasons stated above, the petition is dismissed as infructuous. Consequently, connected MP is closed.

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