

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF JUNE, 2022

BEFORE

THE HON'BLE MR. JUSTICE HEMANT CHANDANGOUDAR

CRIMINAL PETITION NO.8197 OF 2019

BETWEEN:

DAVID MATHAI
S/O LATE P.G. MATHAI,
AGED ABOUT 66 YEARS,
RESIDENT OF 4/6 4TH CROSS STREET,
RC LAYOUT, ST. THOMAS TOWN,
LINGARAJAPURA, BENGALURU.

SHOWN IN FIR AS MANAGING DIRECTOR,
M/S. IB TRACK SOLUTIONS PVT. LTD.,
INDIRANAGAR, BENGALURU.

...PETITIONER

(BY SRI PRASANNA KUMAR P., ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY INDIRANAGAR POLICE STATION,
HALASURU SUB-DIVISION,
REPRESENTED BY ITS STATE PUBLIC PROSECUTOR,
HIGH COURT BUILDING, BENGALURU-560 001.
2. SUNIL S PATIL
AGED ABOUT 49 YEARS,
SR. INTELLIGENCE OFFICER,
DIRECTORATE OF REVENUE INTELLIGENCE,
ZONAL UNIT, BENGALURU.

...RESPONDENTS

(BY SRI ROHITH B.J., HCGP FOR R-1)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 482 OF THE CODE OF CRIMINAL PROCEDURE, 1973 PRAYING TO QUASH THE FIR IN CRIME NO.172/2019 DATED 16.07.2019 REGISTERED BY THE 1ST RESPONDENT/INDIRANAGAR POLICE STATION, HALASURU SUB-DIVISION, BENGALURU AS AGAINST THE PETITIONER/ACCUSED NO.3 ALLEGING OFFENCES P/U/S 406, 420, 34 OF IPC AND SECTION 66(C) AND 72A OF INFORMATION ACT, 2000 (PRODUCED VIDE ANNEXURE-A TO THE PETITION) PENDING BEFORE THE 1ST A.C.M.M., COURT NRUPATHUNGA ROAD, BENGALURU.

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

ORDER

Respondent No.2 lodged the FIR before the Indiranagar Police Station alleging that, during the investigation conducted by the Directorate of Revenue Intelligence (DRI) Bangalore, it was found that E-seals supplied by company were passing clearances from Customs at Exports Port Gate even when it was not in a locked condition and it was also found that E-seals were tampered, that the particular seal could be scanned at a distance of few meters without being in a locked condition, and that there were email communications indicating that they had switched off the "Tampering Alerts" option in their software. It was further alleged as per the data retrieved from the emails corresponding

to key persons of the company it was evident that the e-seals supplied by the company were reported to be tampered at the port of discharge, the company had switched off the feature on readers to detect the tempering of e-Seals lead to containers with the tampered seals leaving the country without being detected by the Customs Officers.

2. The Police registered the FIR for the offences punishable under Sections 66 (C), 72 (A) of the Information Technology Act, 2000, and Sections 406, 420 read with 34 of IPC. Taking exception to the same, this petition is filed.

3. Learned counsel appearing for the petitioner-accused No.3 submitted that the petitioner-accused No.3 is not the Managing Director of the accused No.1 company as alleged in the FIR and in the absence of any material, the registration of the FIR against the petitioner-accused No.3 is without any substance.

4. On the other hand, learned HCGP appearing for the State submits that the allegation made in the FIR clearly

discloses the commission of the offence alleged against the petitioner-accused No.3. Hence, the registration of the FIR does not warrant any interference and sought for dismissal of the petition.

5. I have considered the submissions made by the learned counsel appearing for the parties.

6. The petitioner-accused No.3 in order to substantiate his claim that he is not the Managing Director, has produced Articles of Association of the accused No.1 company and also Company Master Data issued by the Ministry of Corporate Affairs. Perusal of the Articles of Association at Annexure-D and also Company Master Data indicates that Sudhendra Dankanikote and K.N. Anil Kumar are the only two directors of the accused No.1 company. These documents have not been controverted by the respondents and in the absence of any challenge to these documents, it is implied that the petitioner-accused No.3 is neither the Managing Director nor the Director of the Accused No.1 company. In the absence of any material that, the petitioner as the Managing Director of the accused No.1

company has committed the offence alleged against him, the registration of the FIR against the petitioner-accused No.3 is without any substance and it would be abuse of process of law if the investigation is allowed to be continued against the petitioner-accused. Hence, I pass the following:

ORDER

- i) The Criminal Petition is allowed
- ii) The impugned FIR in Crime No.172/2019 registered by the Indiranagar Police Station, Halasur Sub-Division in so far it relates to petitioner-accused No.3 is hereby quashed.

It is needless to state that the Police are at liberty to investigate the case as against the other accused.

In view of disposal of the petition, I.A.No.1/2022 shall stand consigned to record room.

Sd/-
JUDGE