

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 29.08.2016

PRONOUNCED ON: 02.09.2016

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. No.12155 of 2016 and Crl.M.P. No.6248 of 2016
Crl.O.P. No.7944 of 2016 and Crl.M.P. No.4148 of 2016

- 1 Pradeep Kashyap
Managing Director
Metrix Precision Components Pvt. Ltd.
B-46 KSSIDC Industrial Estate
Kambalagodu Village
Kengeri Hobli
Bangalore - 74
 - 2 A. Dhanarjaya
Director - Operations
Metrix Precision Components Pvt. Ltd.
B-46 KSSIDC Industrial Estate
Kambalagodu Village
Kengeri Hobli
Bangalore - 74
- Petitioners in Crl.O.P. No.12155/2016

Metrix Precision Components Pvt. Ltd.
represented by its Managing Director
Pradeep Kashyap
B-46 KSSIDC Industrial Estate
Kambalagodu Village
Kengeri Hobli, Bangalore - 74

Petitioner in Crl.O.P. No.7944 of 2016

vs.

United Foundries Pvt. Limited,
represented by its General Manager
J. Sundaram
S/o M. Jayaraman
No.12D SIPCOT Industrial Complex
Ranipet
Vellore District

Respondent in both Crl.O.Ps.

Criminal Original Petitions filed under Section 482, Cr.P.C.
seeking to call for the records culminating in C.C. No.72/2015,
pending on the file of the District Munsif Court, Ranipet

(conferred on criminal jurisdiction) and quash the same.

For petitioners in
both the Crl.O.Ps. Mr. J. Sivanandaraj

For respondent in
both the Crl.O.Ps. Mr. T.P. Prabhakaran

COMMON ORDER

These Criminal Original Petitions are filed seeking to call for the records culminating in C.C. No.72/2015, pending on the file of the District Munsif Court, Ranipet and quash the same.

2 For the sake of convenience, the petitioners and respondent are referred to as "accused" and "complainant" respectively.

3 Heard Mr. J. Sivanandaraj, learned counsel for the accused and Mr.T.P. Prabhakaran, learned counsel for the complainant.

4 The complainant lodged a private complaint in C.C. No.72 of 2015 before the Judicial Magistrate Court, Ranipet, against the accused for an offence under Section 420 IPC, challenging which, the accused are before this Court.

5 Mr. Sivanandaraj, learned counsel for the accused submitted that the complaint dated 01.04.2015 given by the complainant does not disclose commission of a cognizable offence and it is a sheer abuse of process of law, inasmuch as the accused and the complainant have had business dealings and in the course of such business dealings, the complainant has alleged that the accused have not given certain certificates, for which, criminal prosecution cannot be maintained.

6 In oppugnation, Mr. T.P. Prabhakaran, learned counsel for the complainant resisted the said contention and pleaded for sustaining the prosecution.

7 In order to appreciate the rival contentions, it may be necessary to extract the contents in the complaint:

"That at the time of purchasing goods, Accused 2 and 3 herein, specifically represented to the complainant that the first Accused Company is situate in a Special Economic Zone (SEZ), authorised by the competent authority to establish such unit and it is also 100% Export Oriented Unit, enjoying

all the concessions given by the State and the Central Governments, including exemption from Central Sales Tax (CST) and Excise Duty. They also undertook to produce necessary documents for the same, viz., Green Card (Certificate that the Unit is a 100% Export oriented), issued by the competent authorities to prove that their unit is situated in a Special Economic Zone, CT-3 Certificate, Export Invoices, Bills of Lading, Declaration in Form-I or D3 Certificate, etc. to prove that their unit is 100% Export oriented. Even in the Purchase Orders issued by the Accused, they have clearly printed thereon as "100% Export Oriented Unit."

5. That on the request of the accused 2 and 3 and believing their representation as true and correct, the Complainant also supplied spheroidal Graphite Iron Castings on the basis of the Purchase Orders issued by the Accused and Invoices were raised without charging any Tax and Excise Duty. The Purchase Orders issued by the Accused and the Invoices raised by the Complainant are filed herewith for the perusal of this Hon'ble Court.

6. That however, the Accused 2 and 3 subsequently failed and neglected to produce the documents as stated above, excepting CT3 Certificate, in spite of repeated requests and reminders of the Complainant. The complainant has to produce the abovesaid documents in original before the Assessing officers under the CST Act and the Central Excise Act to prove that the goods were sold to a 100% Export oriented SEZ unit and consequent Tax exemptions, otherwise the Sales will be treated as an Inter-State sales not covered under any exemption, but liable to usual Tax and Duty. The Complainant sent a letter dt. 02.03.2013 requesting the accused to submit the abovesaid documents for which also there was no response."

8 From a reading of the aforesaid averments, it is clear that the accused had purchased iron / steel castings from the complainant from 2006 to 2009 and that the accused had not given certain certificates to show that their company is a 100% export-oriented unit. The fact remains that the complainant supplied goods to the accused over a period of time. Therefore, it is too late in the day for the complainant to say that he was misled by the accused with regard to the profile of the accused company. For sustaining a prosecution under Section 420 IPC,

there should be deception at inception, which element is palpably lacking in this case. This Court referred the matter to the Mediation and Conciliation Centre, where, the parties entered into a Memorandum of Understanding, under which, the accused handed over several documents sought by the complainant.

In view of the above and in the light of the fact that the complaint in question does not prima facie disclose the commission of a cognizable offence under Section 420 IPC, the prosecution of the accused in C.C. No.72 of 2015 on the file of the Judicial Magistrate Court No.II, Ranipet, is hereby quashed and the Criminal Original Petitions are allowed. Connected Crl.M.Ps. are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

cad
To

- 1 The Judicial Magistrate,
Court No.II, Ranipet.
- 2 The District Munsif
Ranipet
- 3 The Public Prosecutor
Madras High Court
Chennai 600 104

- 1 cc to M/s.J.Sivanandaraaj, Advocate, sr.50229
1 cc to M/s.T.P.Prabakaran, Advocate, sr.50340

Crl.O.P. Nos.12155 of 2016 and 7944 of 2016

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