

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.43538 of 2016

ORDER:

This writ petition under Article 226 of Constitution of India is filed seeking to declare registration of FIR No.245 of 2016 on the file of the 4th respondent police station, as illegal and arbitrary.

Heard and perused the material available on record.

The offences alleged against the petitioner are under Sections 103 and 104 of Trademark Act and 420 IPC. The case in brief is that the 5th respondent is running business in manufacturing the confectionery including biscuits and namkeens under the brand name of 'Kids Fun' and distributing and marketing the same. The 5th respondent made the above complaint alleging that the petitioner is also doing the similar business and is selling their products by using the trademark of the 5th respondent.

The learned counsel for the petitioner submitted that the petitioner is also doing the same business and the products are distinctive and that they obtained certificate of registration of trade mark of Kids Fun but, the 5th respondent has not filed its objections before the Registrar of Trademarks but, misguiding the police, it filed the present compliant.

Learned Assistant Government Pleader for Home submitted that basing on the complaint of the de facto complainant, the above crime is registered and that the police concerned are investigating into the matter.

The petitioner filed this writ petition challenging the investigation in the above crime. This Court is not inclined to interfere with the investigation. However, taking into consideration the facts and circumstances of the case and the grievance of the petitioner, without going into the merits of the case, this Court is of the view that the investigation in the above case can be completed without arresting the petitioner.

Accordingly, the 4th respondent is directed to complete the investigation and file a final report in the above Crime, in accordance with law in either way, without arresting the petitioner. The petitioner is also directed to appear before the investigating officer concerned, and execute a personal bond for a sum of Rs.5,000/- (Rupees five thousand only) with one surety for the like sum, for his future appearance before the investigating officer concerned, as and when required for the purpose of investigation.

With the above directions, the writ petition is disposed of. No order as to costs. Pending Miscellaneous Petitions, if any, shall stand closed.

December 15, 2016.
KTL

RAJA ELANGO, J