

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.18243 of 2018

and

Crl.M.P.Nos.9566 and 9567 of 2018

N.Venkatachalapathi
S/o.Nachimuthu

.. Petitioner

Vs

1.The State of Tamil Nadu,
represented by its
Inspector of Police,
Covai City Police,
Coimbatore District.

2.P.Sumant Agarwal
S/o.Pramod Agarwal

.. Respondent

Criminal Original Petition filed under Section 482
Cr.P.C. praying to call for the records in C.C.No.16 of 2018 on
the file of learned Judicial Magistrate VIII, Coimbatore,
insofar as this petitioner is concerned and quash the same.

For Petitioner : Mr.M.Senthamizhselvan

For Respondents : Mr.C.Raghavan
Government Advocate [Crl.side] [R1]

सत्यमेव जयते
O R D E R

On the complaint lodged by the second respondent, the first respondent registered a case in Crime No.54 of 2014 and after completing the investigation, has filed a charge sheet in C.C.No.16 of 2018 before the learned Judicial Magistrate VIII, Coimbatore, under Section 409 IPC against the petitioner herein for quashing which the petitioner is before this Court.

2. Heard the learned counsel for the petitioner and the learned Government Advocate [Crl.side].

3. It is the case of the de facto complainant that they

are exporting turmeric to various countries; that the accused approached them representing that he will act as their container sub-agent and take care of their logistics; that the de facto complainant believed the representation and loaded turmeric valued at Rs.24 lakhs into two containers for export; that the accused gave a bill of lading but did not issue liner bill of lading and instead gave a house bill of lading; that when the de facto complainant insisted for liner bill of lading, the accused demanded additional US dollars 100; that the de facto complainant gave that amount also on 06.06.2014; that after receiving the money the accused did not give liner bill of lading and hence, the complaint and consequent charge sheet.

4. Learned counsel for the accused submitted that earlier the de facto complainant had given a complaint in which they have stated that the original bill of lading got lost in respect of which the Erode South Police Station had given CSR No.230 of 2014. Relying upon this document, learned counsel for the accused submitted that when the original bill of lading has been lost even according to the de facto complainant, the present prosecution is an abuse of process of law.

5. Per contra, learned Government Advocate [Crl.side] refuted the contentions.

6. In the opinion of this Court, there are prima facie materials collected by the police to show that the de facto complainant had loaded two containers with Rs.24 lakhs worth of turmeric and they were entrusted to the accused. The accused had failed to give the liner bill of lading nor returned the goods. As regards CSR No.230 of 2014, it is a disputed question of fact which cannot be gone into in a quash petition. Since there are prima facie materials to frame charges, this is not a fit case to quash the prosecution. Hence, this petition is dismissed with liberty to the petitioner to raise all the points before the trial Court after the charges are framed. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VII)

//True copy//

Sub Assistant Registrar

gm

To

1.The Judicial Magistrate VIII,
Coimbatore.

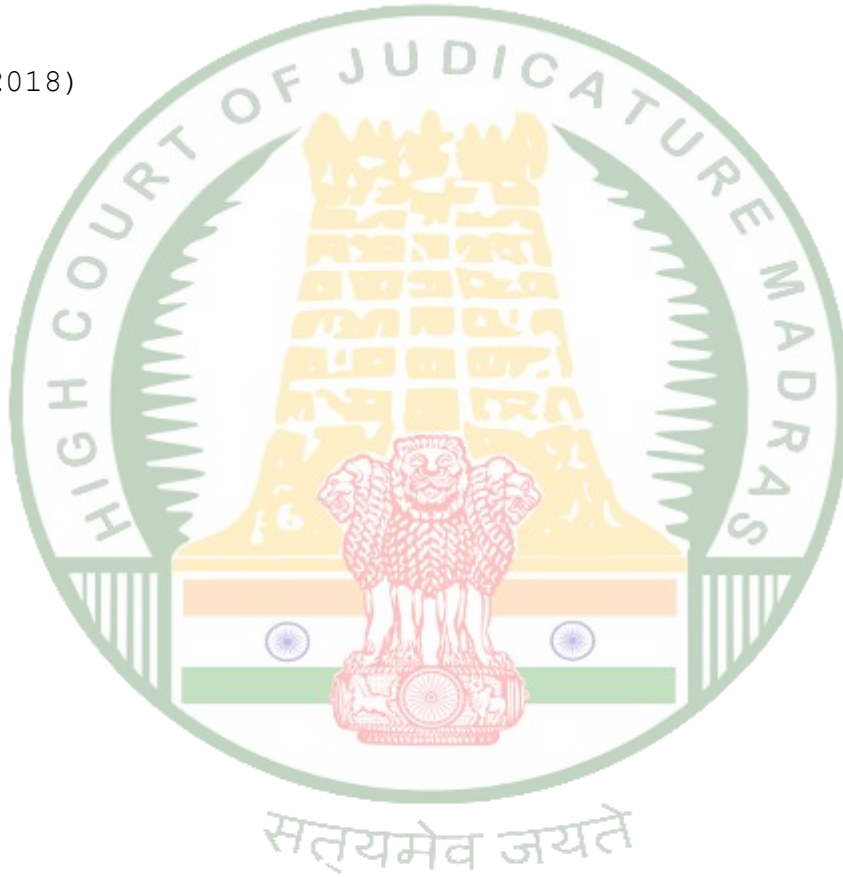
2.The Inspector of Police,
Covai City Police,
Coimbatore District.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Senthamizh Selvan, Advocate SR.No.49084

Crl.O.P.No.18243 of 2018

CNR (CO)
GN(06/08/2018)



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