

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.03.2019

CORAM

THE HONOURABLE Mr.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.8712 of 2016
and Crl.M.P.No.4551 of 2016

Uma Maheswari ...Petitioner/Accused No.1

Vs.

1.State rep. by its Station House Officer,
Thirubuvanai, P.S.Puducherry
Through Public Prosecutor
Puducherry.

2.DTDC Couriers & Cargo Limited,
No.A20, Thiru Vi Ka Industrial Estate,
Opposite E.B.Office,
Guindy, Chennai-600 032.

3.Sakthivel ...Respondents/De-facto Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in Cr.NO.14 of 2016 dated 02.02.2016 pending on the file of the learned Judicial Magistrate No.IV, Puducherry and quash the complaint as against the petitioner.

For Petitioner : Mr.S.R.Rajagopal

For R1 : Mr.V.Balamurugane
Public Prosecutor (Pondy)

For R2 & R3 : No appearance

O R D E R

This Criminal Original Petition has been filed seeking to quash the FIR in Crime No.14 of 2016 dated 02.02.2016 pending on the file of the learned Judicial Magistrate No. IV, Puducherry, for the offence under Sections 418 and 420 r/w. 34 of IPC.

2. The learned counsel for the petitioner would submit that, it is a business transaction between the petitioner and the respondents 2 and 3, in which, a false case has been foisted as against the petitioner. Even as per the allegations averred in the complaint, it is purely civil and contractual nature. Further, he would submit that the entire complaint itself do not contain any essential ingredients for cheating and assuming the allegations is true only in default of payment is not at all maintainable. Further to attract the offence under Section 418 of IPC, there is absolutely no averment in the complaint itself. Therefore, he sought for quash the FIR. Though the notice served to the second and third respondents but no one appeared on behalf of the respondents two and three herein.

3. The learned Public Prosecutor (Pondicherry) would submit that there is a business transaction between the petitioner and the respondents two and three, in which, there is a due from the petitioner. Though, the crime has been registered as against the petitioner and the investigation is still pending.

4. Heard both sides.

5. It is seen that the complaint has been filed before the Judicial Magistrate No.III, Puducherry and the same was forwarded under section 156(3) of Cr.P.C. On such direction, the complaint has been registered by the first respondent for the offence under sections 418 and 420 of IPC r/w. 34 IPC. The crux of the complaint is that the first petitioner is the Director of M/s. Sharon Solutions Ltd., they engaged in the manufacture and supply of Smart cards such as SIM cards, Banking Cards, ATM Cards, Financial Inclusion cards, Government Driving License and other Smart Card projects. They export all the cards to various countries across the globe.

6. During the first quarter of 2013, the third respondent representing Uma Enterprises had approached the petitioner with a proposal to provide cargo/courier services. Based on the assurances, promises and warranties made on timely delivery by the third respondent. There was agreement between the petitioner's and the third respondent for each State. Based on the understanding, the petitioner started to hand over the cards for shipments to the third respondent for delivery to BSNL, MTNL, Aircel, HCL, Idea etc., While, the initial shipments vide the third respondent delivered within a reasonable time and later shipments were default delivery belatedly and the petitioner suffered a financial loss to the tune of Rs.37,08,203/-. There was a dispute between the petitioner and the third respondent in respect of delivery of

goods, the petitioner stopped the payment of courier service done by the third respondent. It is also seen that the entire issue with regard to business transaction of contractual nature. Therefore, the offence alleged by the first respondent not at all made out as against the petitioner. It is purely civil in nature. Therefore, the FIR is nothing but abuse the process of law.

7. Accordingly, this Criminal Original Petition is allowed. The FIR in Crime No.14 of 2016 is quashed. Consequently, the connected Miscellaneous Petition is closed.

mpa/lpp

Sd/-
Assistant Registrar(C.O.)

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate No.IV,
Puducherry.

2.The Station House Officer,
Thirubuvanai, P.S.Puducherry
Through Public Prosecutor
Puducherry.

3.The Public Prosecutor,
Puducherry.

+lcc to Mr.S.R.Rajagopal, Advocate, SR.No.21073
+lcc to Mr.L.Rajasekar, Advocate, SR.No.21147
+lcc to the Public Prosecutor, Vide Sr.No.21679

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and
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Kak (29/04/2019)