

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.06.2019

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

Crl.Rev.No.404 of 2019

MSC Agency India Private Limited
KGN Towers, 1st Floor,
No.62, Ethiraj Salai, Egmore,
Chennai-600 105
rep.by its Senior Manager-Legal
A.Umai Balan,

...Petitioner

Vs

State of Tamil Nadu
Rep.by Deputy Commissioner of Police
Central Crime Branch
No.132, Commissioner of Office Building
EVK Sampath Road, Vepery,
Chennai-600 007.

....Respondents

Prayer:- Criminal Revision Petition filed under Section 397 r/w. 401 of Criminal Procedure Code to set aside the order dated 04.02.2019 passed by the learned CCB & CBCID MM, Egmore, Chennai in Crl.M.P.No.132/2019 and consequently direct the respondent to register an FIR and investigate the same based on the complaint dated 22.10.2018.

For Petitioner : Mr.Palaniandavan

For Respondents: Ms.P.Kritika Kamal,
Government Advocate (Criminal side)

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O R D E R

The petitioner filed the petition in Crl.M.P.Nos.132 of 2019 under Section 156 (3) on the file of the learned CCB and CBCID MM, Egmore, Chennai, which came to be dismissed on 04.02.2018, aggrieved by which, this Revision Petition has been preferred.

2. Heard Mr.Palaniandavan, learned counsel for the petitioner and Ms.Kritika kamal, learned Government Advocate (Criminal side) appearing for the respondent.

3.It is the case of the petitioner that they are Carriers and they had transported Coal in containers from China to Chennai at the request of one Headwin Exim Private Limited and M.K.Carbon of Bangalore. After the Coal reached Chennai port, from where it was transported by road to the Container Freight Station in Chennai. According to trade practice, the importer should produce the original Bill of Lading and take delivery of the consignment. The original Bill of Lading will be given to the Importer only after he clears the dues of the Exporter and the Carrier. While that being so, it is alleged by the petitioner that the importer, in conspiracy with the Containers Freight Station and Customs House Agents, cleared the consignment with the help of bogus Bill of Lading. However, the learned Magistrate has dismissed the petition on the short ground that the remedy for the petitioner is by way of Civil Suit, since the jurisdiction is predicated on an Agreement with the importer.

4. Ms.Kritika Kamal, learned Government Advocate (Criminal Side) brought to the notice of this Court that on the complaint lodged by Mr.Prathap Lingam (the Exporter), a regular case in CCB.Crime No.227 of 2018 has been registered on 19.12.2018 under Sections 406, 420, 465, 468 and 471 IPC against the importer, the Container Freight Station and the Custom House Agent, against whom the petitioner also has same grievances. The learned Government Advocate (Criminal Side) further submitted that the Police have examined one Mr.Umai Balan, a Senior Executive of the petitioner Company and has enlisted him as prosecution witness. Thus, in respect of the transaction alleged by the petitioner, a regular FIR has been registered and the investigation is in progress.

5.In such view of the matter, second FIR cannot be registered for the same transaction. In the opinion of this Court, the order passed by the learned Magistrate does not warrant interference, though the ground on which, the Magistrate has refused to order police investigation may not be legally correct. Hence, in view of the aforesaid development, it may not be necessary to set aside the order passed by the Magistrate.

6.In the result, this Criminal Revision Petition is closed.
The respondent Police is directed to bear in mind the fact that the Bill of Lading and delivery order, which should have been issued by the petitioner for the importer to lawfully take custody of the goods, has been forged in this case and hence, by no stretch of imagination can this be termed as civil transaction.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

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To

- 1.The CCB & CBCID Metropolitan Magistrate
Egmore, Chennai 8.
- 2.The Deputy Commissioner of Police
Central Crime Branch
No.132, Commissioner of Office Building
EVK Sampath Road, Vepery,
Chennai-600 007.
- 3.The Public Prosecutor,
Madras High Court.

Cr1.Rev.No.404 of 2019

SPD(CO)
SP(10/07/2019)

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