



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Cr1.O.P.No.30647 of 2019

M/s.Elsaa Gas Services Pvt. Ltd.
Rep. by its Managing Director, Mr.L.Arunachalam
No.6, 2nd Street, Arunachalapuram, Adyar,
Chennai - 600 020

...Petitioner

Vs.

1. The Commissioner of Police,
Office of the Commissioner of Police,
Vepery, Chennai - 600 007.
2. The Assistant Commissioner of Police,
Central Crime Branch - II, EDF - III,
Vepery, Chennai - 600 007.

...Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to set aside the proceedings of the 2nd respondent dated 23.07.2019 and consequently direct the 1st respondent to further investigate into the complaint dated 13.06.2019 lodged by the petitioner.

For Petitioner : Mr.B.Kumar
Senior Counsel for
Ms.A.L.Ganthimathi

For Respondents : Mr.C.Iyyapparaj
Additional Public Prosecutor

O R D E R

This petition has been filed to set aside the proceedings of the 2nd respondent dated 23.07.2019 and consequently direct the 1st respondent to further investigate into the complaint dated 13.06.2019 lodged by the petitioner.

2.With the consent of both the learned Senior Counsel and the learned Additional Public Prosecutor this petition is taken up for final disposal. The petitioner's complaint has been closed by the respondent police on the ground that the petitioner should redress the grievances before the civil forum.



3.The petitioner herein had been supplying the commercial gas to the persons named in the complaint who are suspected to have committed the offence. Owing to certain defaults, the supplies were said to have discontinued. Thereafter on 23.10.2017, the suspected person in the complaint had sent an E-mail assuring that the arrears for the supplies already made would be settled on a daily basis and based on such E-mail it is stated that the petitioner had recommenced supply of the commercial cylinders. However, since neither the arrears nor the amount for the subsequent supplies were not paid, the criminal complaint came to be filed.

4.On a perusal of the E-mail dated 23.10.2017 it could be construed that the petitioner herein has delivered the commercial cylinders based on the assurance and such the ingredients under Section 420 of IPC that there was an intention to cheat from the inception, could be made out. While that being so, the act of the respondent herein in closing the petitioner complaint as civil dispute is improper.

5.In the light of the above observations, the impugned closure report dated 23.07.2019 on the file of the 1st respondent herein is set aside. Consequently, the 2nd respondent is directed to take the petitioner's complaint dated 13.06.2019 on file and register an FIR under Section 420 of IPC. In case, the 2nd respondent is of the view that any other offence may have been committed, it is open to them to incorporate such offences in the FIR and proceed on investigation in accordance with law. The 2nd respondent shall endeavor to complete the investigation, as expeditiously as possible, in any event within a period of three months from the date of receipt of a copy of this order.

6.Accordingly, this criminal original petition stands allowed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

ssr/jas



To

1. The Commissioner of Police,
Office of the Commissioner of Police,
Vepery, Chennai - 600 007.

2. The Assistant Commissioner of Police,
Central Crime Branch - II, EDF - III,
Vepery, Chennai - 600 007.

3. The Public Prosecutor,
High Court of Madras.

+1 CC to M/s.A.L. Gandhimathi, advocate sr 95702.

Crl.O.P.No.30647 of 2019

GJ(CO)
SP(20/12/2019)