

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2020

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.14803 of 2014

and

M.P.No.1 of 2014 & Crl.M.P.No.29 of 2016

1.Ganpatlal Agarwala,
2.Pawan Kumar Agarwala. Petitioners

-Vs-

1.State by:
Inspector of Police,
District Crime Branch,
Tiruppur District.

2.M.Shaifdeen. Respondents

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records and to quash the FIR registered in Cr.No.41 of 2013 dated 24.12.2013 on the file of the 1st respondent Police.

For Petitioners : Mr.S.V.Pravin Rathinam

For Respondent : Mr.R.Ravichandran for R1.
Government Advocate (Crl.side)

Mr.K.G.Senthilkumar for R2.

सत्यमेव जयते
O R D E R

This petition has been filed to quash the FIR registered in Cr.No.41 of 2013 dated 24.12.2013 on the file of the 1st respondent Police.

2.When the matter is taken up for hearing, the learned counsel for the petitioner would submit that the 1st petitioner died. Therefore, this petition is dismissed as abated insofar as the 1st petitioner is concerned.

3.Insofar as the 2nd petitioner is concerned, the allegation against the petitioner is that the petitioner purchased yarn from the 2nd respondent and had not paid the amount for the same.

According to the learned counsel for the petitioner, the transaction is purely civil in nature and therefore, the complaint against the 2nd petitioner is liable to be quashed. The learned counsel for the petitioner further relied upon the judgment rendered by the Hon'ble Supreme Court reported in MANU/SC/0945/2014 in the case of Rajib Ranjan Vs. R.Vijayakumar in Crl.A.Nos.729 to 732 of 2010.

4.The learned Government Advocate (Crl.side) appearing for the 1st respondent Police would submit that the very inception of the transaction is only to cheat the 2nd respondent. Therefore, they purchased yarn, but failed to pay for the same. Despite several reminders, the petitioners did not pay the money and cheated the defacto complainant. Therefore, the petition is liable to be dismissed.

5.Heard the learned counsel on either side and perused the records.

6.On reading of the entire materials, no doubt there was a business transaction between the petitioners and the 2nd respondent/defacto complainant with regard to purchase of yarn. The specific allegation is that the petitioner did not pay the money for purchasing of yarn from the 2nd respondent. It shows that it is only a business transaction and this Court feels that the matter is purely civil in nature and no criminal offence has been made out. Therefore, the FIR registered in Crime No.41 of 2013, as against the 2nd petitioner is liable to quashed.

7.Accordingly, this Criminal Original Petition is allowed in sofaras the 2nd petitioner is concerned and dismissed as abated insofar as 1st petitioner is concerned. However, the 2nd respondent is at liberty to approach the competent Court for civil liability. Connected miscellaneous petitions are closed.

सत्यमेव जयते Sd/-

Assistant Registrar(CS VII)

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Sub Assistant Registrar

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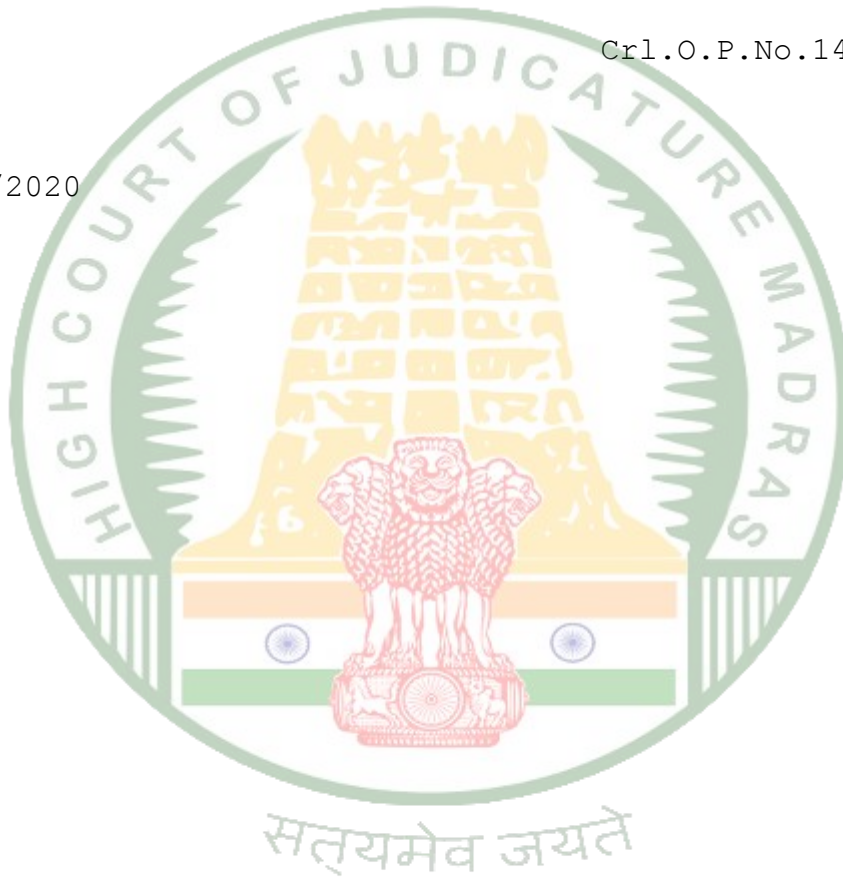
1.The Public Prosecutor,
High Court, Madras.

2.The Inspector of Police,
District Crime Branch,
Tiruppur District.

+1cc to Mr.S.V.Pravin Rathinam, Advocate Sr.13955
+1cc to Mr.K.G.Senthilkumar, Advocate Sr.14414

Cr1.O.P.No.14803 of 2014

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