

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

CRL.O.P.NO.21372 OF 2019

AND

CRL.M.P.NO.11058 OF 2019

Murugan

.. Petitioner

Vs.

1. The State,
Represented by Inspector of Police,
Arni Taluk Police Station,
Tiruvannamalai.
(FIR 93 of 2019)

2. Jayakumar

.. Respondents

Prayer:-

Criminal Original Petition filed under Section 482 Cr.P.C. 1973 praying to call for the records in FIR No.93/2019 on the file of the 1st respondent and to quash the same as illegal and without jurisdiction.

For Petitioner : No appearance

For R1 : Mr.S.Karthikeyan
Additional Public Prosecutor

For R2 : No appearance

O R D E R

The Criminal Original Petition has been filed seeking to quash the FIR in Crime No.93/2019 on the file of 1st respondent police as illegal and without jurisdiction.

2.Despite several adjournments and even after printing the name of the petitioner in the cause list, there is no representation on behalf of him either in person or through his counsel, for making his submissions.

3.Heard Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the 1st respondent police.

4.The case of the prosecution is that the petitioner herein along with other two persons, purchased 450 bags of rice under three Invoice Nos.30, 31, 32 from the defacto complainant and thereafter, they had not paid the sale consideration as agreed. When the same was questioned by the defacto complainant the petitioner and other accused in this case on 19.11.2018 unlawfully entered into the rice mill running by the 2nd respondent and made life threat. Only for the said occurrence, an FIR in crime No.93 of 2019 has been registered against this petitioner and others for the offence punishable under Section 406, 420 & 506(i) IPC.

5.Now coming to the grounds raised by the petitioner, it was the contention on the side of petitioner that the allegations made in the FIR do not constitute the offence of cheating and absolutely there is no prima facie evidence to prove the offence under Section 406 of IPC. Further there is no inducement on the part of the petitioner, to deceive the defacto complainant more than that the jurisdiction of the police is confined to the investigation of cognizable offences and does not extend to meddle in disputes that are of civil nature.

6.Now on a perusal of the FIR, it would reveal that the petitioner had purchased rice from the defacto complainant under three invoices for a total sum of Rs.5,40,000/-, out of which he made part payment leaving balance of Rs.2,42,000/-. However, it is the specific case of the 2nd respondent that the petitioner having assured that he would pay the entire amount, if the 2nd respondent sold the rice to him. Therefore to find out, whether the petitioner was having intention to cheat the petitioner or not, investigation is necessary. In otherwise the allegations in the FIR prima facie would constitute offences punishable under Sections 406, 420 & 506(i) IPC against the petitioner. Therefore without there being any evidence let in by the prosecution, this Court cannot come to the conclusion that the petitioner is innocent.

7.At this juncture, it is relevant to refer to the Judgment of Hon'ble Supreme Court of India dated 12.02.2019 in the case of "SAU.Kamal Shivaji Pokarnekar -vs- The State of Maharashtra & Ors." Applying the ratio laid in the above referred Judgment, this Court is of the view that since the allegations levelled by the 2nd respondent are on the factual issues, the same have to be decided only during the time of enquiry and hence, this Court is not inclined to allow this petition.

8.Accordingly, the Criminal Original Petition is dismissed.

Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar

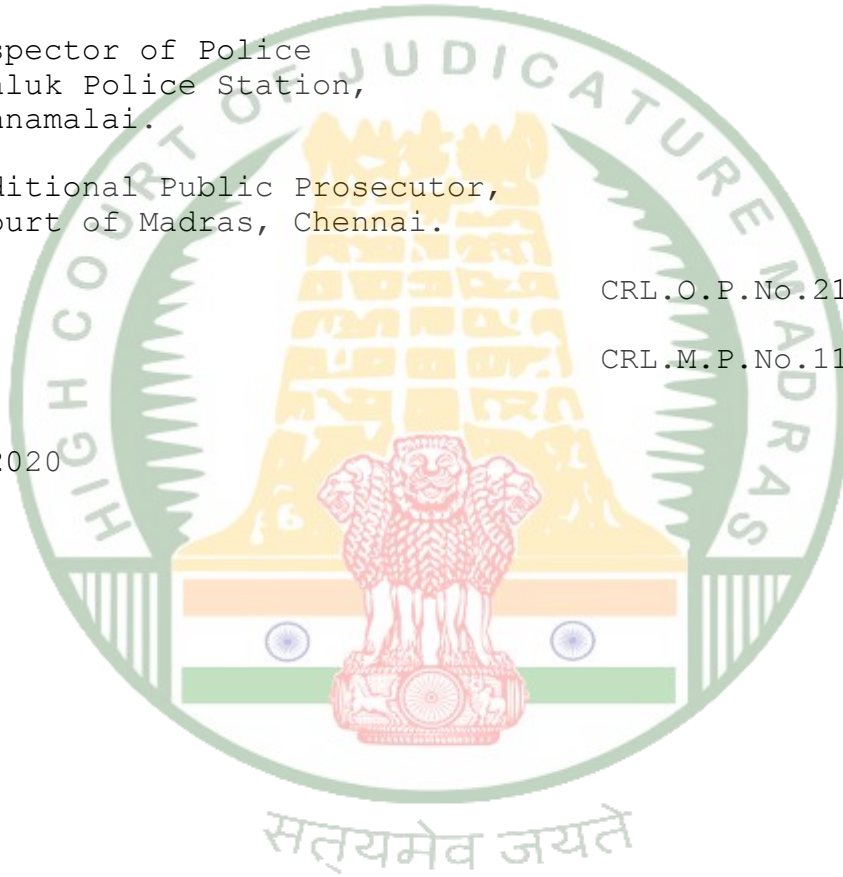
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To

1. The Inspector of Police
Arni Taluk Police Station,
Tiruvannamalai.
2. The Additional Public Prosecutor,
High Court of Madras, Chennai.

CRL.O.P.No.21372 of 2019
and
CRL.M.P.No.11058 of 2019

NRL (CO)
CS/03/12/2020



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