

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 07.08.2020

PRONOUNCED ON: 17.08.2020

CORAM

THE HONOURABLE Mr.JUSTICE M. NIRMAL KUMAR

Cr1.O.P.No.24627 of 2017

Shanmugavel
S/o. Serman
Assistant Manager,
Trichy-Nagapattinam Zone,
Finolex Industries Ltd.,
Having Registered Office at
No.4/D, Doosi Towers,
Poonamalle Main Road,
Kilpauk,
Chennai-600 010. ... Petitioner

Versus

1. The Superintendent of Police,
Nagapattinam District.
2. The Deputy Superintendent of Police,
Nagapattinam Range,
Nagapattinam.
3. The State rep. by the
The Inspector of Police,
Thirukkuvalai Police Station,
Nagapattinam District.
4. The Deputy Superintendent of Police,
CBCID,
Nagapattinam.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to transfer the investigation in Cr.No.123 of 2017 from the 2nd Respondent to the 4th Respondent or any other independent agencies and pass such other or further orders as this Court may deem fit and proper in the circumstances of this case.

For Petitioner : Mr.A.Amal Antony

For Respondents : Mr.C.Iyyappa Raj

O R D E R

The petitioner/Assistant Manager of Finolex Industries Ltd., is the defacto complainant. Based on his complaint, a case in Cr.No.123 of 2017 under Sections 420 and 476 of IPC r/w

29, 102(1)(a), 104 & 105 of Trade Mark Act, 1999, was registered by the third respondent on 31.05.2017. The defacto complainant, who is the Assistant Manager of Tiruchi-Nagapattinam area of Finolex Industries Ltd had come to Nagapattinam District for promotion, at that time, near the Fair Price Shops at Melavarakarai Road, he found a full 6 meter pipe and four other pieces of pipe, wherein the Company's Finolex Trade Mark was fabricated in blue colour and the same was not similar to the Registered Trade Mark of the petitioner company. The petitioner enquired with the local people and found that the said pipes used for the Government Public Water Lining Project. Hence he immediately lodged a complaint to the respondent police.

2. The respondent had given a requisition to the Tahsildhar, Thirukkuvalai for digging soil to take the sample of the laid pipe which has been used in the public projects between Eravaikadu - Melavalakarai Road. Thereafter, on 22.06.2017, upon a Patrol information, the Respondent Police went to the spot wherein some workers digged the soil and tried to remove the under quality/fake/duplicate PVC pipes which was videographed by the petitioner and on enquiry, the Respondent Police came to understand that one Raja and Monohar only engaged these persons to remove the under quality/fake/duplicate PVC pipes from the soil which has been laid long back for the Public Water Lining Project. They have also filed an Anticipatory Application in CrI.O.P.No.(MD) No.13363 of 2017 which was dismissed by this Court.

3. Despite the same, the Respondent Police have not taken any steps in this regard. Thereafter, it has come to the knowledge of the petitioner that apart from the above said project, pipeline for water had been executed in 27 Villages using the same pipes. On perusing the reply given in RTI, it is seen that the Block Development Officer had admitted pipes namely Finolex or equivalent are only used in their pipeline projects. However, similar pipes were being prepared by the contractors by using fake substances using the name of Finolex. Provided all these information, the Respondent Police have not taken any action as contemplated under law. Hence, he had filed an application seeking transfer of investigation from the file of the third respondent to the file of the 4th respondent.

4. The learned Additional Public Prosecutor submits that in this case, on receipt of the complaint from the petitioner, the Respondent Police had gone to the scene of occurrence to recover the fake P.V.C seal of Finolex Limited. Thereafter, the copy of the complaint was given to the concerned Tahsildhar, Block Development Officer seeking clarification. The learned counsel would further contend that the investigation is almost completed and the charge sheet is soon to be filed.

5. Considering the rival submissions and on perusal of the materials, it is seen that the investigation is almost completed and the Charge Sheet has to be filed before the

concerned court. In view of the same, this Court directs the third Respondent Police to file the final report before the concerned court within one month from the date of receipt of a copy of this order, of course, after lifting the lock down and commencement of functioning of the Court.

6. With these observations, this Criminal Original Petition stands disposed of.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Superintendent of Police,
Nagapattinam District.

2. The Deputy Superintendent of Police,
Nagapattinam Range,
Nagapattinam.

3. The State of Tamilnadu
The Inspector of Police,
Thirukkuvalai Police Station,
Nagapattinam District.

4. The Deputy Superintendent of Police,
CBCID,
Nagapattinam.

5.The Public Prosecutor,
High Court, Madras.

Ssd(co)
krd 29/10

Crl.O.P.No.24627 of 2017

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