



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.03.2020

CORAM:

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

Crl.O.P(MD)No.15494 of 2016

and

Crl.M.P(MD).No. 7336 of 2016

S.Padmanaban

: Petitioner

Vs.

1.The Inspector of Police,
Nagamalai Pudukottai Police Station,
Madurai District.
(In Crime No.378/2016)

2.Chokkalingam

: Respondents

PRAYER : Petition filed under Section 482 of Criminal Procedure, to call for the records from the respondent Police in Crime No.378 of 2016 and quash the same as illegal.

For Petitioner : Mr.J.Jeyakumaran

For Respondents : Mr.S.Chandrasekar

Additional Public Prosecutor (for R1)

No appearance (for R2)

ORDER

Heard the learned counsel appearing for the petitioner and learned Additional Public Prosecutor appearing for the first respondent.

2.A complaint dated 12.07.2016 was lodged by the second respondent to the first respondent Police alleging that the petitioner herein, who is banana trader, had entered into an oral agreement with the second respondent/defacto complainant, who is the banana farmer. The petitioner has agreed to purchase 7000 Tars of banana at the rate of Rs.90/- per Tar and advance amount of Rs.1000/- has been paid. Between 30.10.2015 and 19.12.2015, the petitioner has purchased the best yield of 1535 Tars and paid a sum of Rs.50,000/- (Rupees Fifty Thousand only) towards part consideration and he promised the balance amount of Rs.88,050/- (Rupees Eighty Eight Thousand and Fifty only) would be paid later. When the second respondent/defacto complainant asked the petitioner to pay balance amount, he has intimidated the second respondent/defacto complainant with dire consequences. Hence, the



complaint on *prima facie* satisfaction being taken up for investigation in Crime No.378 of 2016 for the offences under Sections 294(b), 406, 420 and 506(i) of IPC.

3.The petitioner/accused has approached this Court to quash the FIR on the ground that the dispute between the second respondent/defacto complainant and the petitioner is purely civil in nature for breach of contract and a criminal case cannot be initiated. The intention of cheating at the inception itself ought to have been mentioned in the complaint. In the absence of any mentioning about cheating intention, the complaint is liable to be quashed, since there is no *prima facie* material to proceed with the investigation against the petitioner. According to the learned counsel appearing for the petitioner, it is purely a civil contract, wherein the petitioner herein being a dealer in banana, had oral agreement with the second respondent/defacto complainant, who is the farmer and cultivator. Any breach whatsoever, the said contract is purely civil in nature and therefore, the FIR without *prima facie* material to prosecute cannot sustain.

4.The learned Additional Public Prosecutor appearing for the first respondent would submit that the investigation in this case indicates that the petitioner herein having harvested 1535 Tars of banana from the second respondent/defacto complainant's field, has not paid the full consideration and when the second respondent/defacto complainant asked the balance amount, the petitioner threatened him with dire consequences. Investigation is completed and final report is ready and the same has not been taken on file, since this Court has granted stay of filing final report alone.

5.On perusing the complaint, this Court finds that the petitioner herein originally promised the second respondent/ defacto complainant that he will purchase 7000 Tars of banana at the rate of Rs.90/- per Tar, but after harvesting the best yield of 1535 Tars, he has retracted from his contract. He has not paid the full consideration as agreed. The element of intention to cheat at the inception of the contract, is clearly seen from the conduct of the petitioner. It has been time and again insisted by the Court that FIR cannot and need not be encyclopedia of the entire occurrence. It is only a trigger for the investigation agency to start investigation and find out whether any cognizable offence is made out. In this case, it is clearly found from the complaint that the petitioner herein initially promised to purchase 7000 tars and pay a sum of Rs.90/- per Tars, but he purchased only 1535 Tars and abruptly aborted the contract. It has specifically stated in the complaint that he had purchased only the best of the yield and for that also he has not paid the full consideration.



6.In these circumstances, this Court finds that the petition for quashing have no merit and it deserves to be dismissed. Accordingly, the Criminal Original Petition is dismissed. Consequently, connected Miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1.The Inspector of Police,
Nagamalai Pudukottai Police Station,
Madurai District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P(MD)No.15494 of 2016
18.03.2020.

SMA/01/06/2020/3P/3C