

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2021

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.O.P.Nos.10127 of 2018
and Crl.M.P.No.5143 of 2018

K.Senthilkumar

...Petitioner

Vs.

SKM Animal Feed and Foods (India) Pvt Ltd.,
rep.by its Assistant Manager V.Selvapathy,
No.9, Venkataswamy Street,
Santhome, Mylapore,
Chennai 600 004.

.. Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to C.C.No.122 of 2018 pending on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioner : Mr.T.Gowthaman

ORDER

The petitioner has filed this petition to call for the records relating to C.C.No.122 of 2018, pending on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai and quash the same.

2. The case of the petitioner is that the respondent is a Private Limited Company, doing business of manufacturing compounded feeds for diary, cattle and poultry for years in the name and style of "SKM Animal Feed and Animal Foods (India) Limited". The petitioner has found that there was some adulteration in the goods manufactured by the respondent Company and about the poor quality of the products and thereby the petitioner, with social responsibility, has sent complaints to the Chief Minister's Cell, the District Collector Erode, Assistant Director of Rural Development and the Director of Factories and the Uthukudi Village Panachayat in the year 2012. While being so, the respondent has filed a Civil Suit, which was in unnumbered stage, seeking leave to sue the petitioner in Appln.No.725 of 2013 and the said application was dismissed on the ground that no part of cause of action had arisen at Chennai and furthermore, in order to harass the petitioner, the respondent has lodged a complaint in C.C.No.122 of 2018, before the learned Judicial XVIII Metropolitan Magistrate, Chennai. Challenging the same, the present petition is filed.

3. The learned counsel appearing for the petitioner submitted that the respondent did not even issue any legal notice to the petitioner about the initiation of civil or criminal proceedings and the civil proceedings in Apn No.725 of 2013 was also dismissed on the short ground that no portion of the cause of action took place in Chennai. While such being the case, filing private complaint for the same cause of action is not justifiable. Once the respondent failed to proceed with his claim before the competent Civil Forum, he cannot go before the different Forum for the very same cause of action and hence the Trial Court ought not to have entertained the complaint filed by the respondent, as it has no territorial jurisdiction to deal with the same.

4. Further it is the submission of the learned counsel appearing for the petitioner that the respondent's complaint is barred by limitation, in view of the fact that the respondent has made a complaint based on the communication sent by the petitioner to the Government Authorities for taking appropriate action against the respondent for adulteration in the food

products, and it clearly shows the malafide intention of the respondent to harass the petitioner and therefore, filing a private complaint in the year 2018, for a communication sent in 2012, is untenable and prays for quashment of the complaint.

5. Though the notice was served through Court and by way of paper publication and further his name was also printed in the cause list, no one has entered appearance on behalf of the respondent complainant. Hence this Court, considering the pendency of this case, is inclined to decided the case on available records.

6. Facts in the present case is not in dispute that the petitioner has lodged adulteration complaints against the manufactures of the respondent complainant before the competent authorities. Due to which, the respondent has lodged civil proceedings against the petitioner to sue him, as if he caused defame to the name of the respondent and his business. Thereafter, the said application was dismissed. Once again, the respondent after a lapse of about five years, initiating criminal prosecution for the very same cause

of action, against the petitioner before the XVIII Metropolitan Magistrate, Saidapet, Chennai, in C.C.No.122 of 2018, is not sustainable and further there is no proper explanation for the delay in filing the complaint. Hence I have no hesitation to quash the complaint on the sole ground of limitation.

7. For the reasons aforesaid, this Criminal Original Petition is allowed and the complaint in C.C.No.122 of 2018 on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai, is quashed. Consequently connected miscellaneous petition is closed.

26.08.2021

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To

1.The XVIII Metropolitan Magistrate,
Saidapet, Chennai.

2. The Public Prosecutor,
High Court, Madras.

सत्यमेव जयते

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M.DHANDAPANI,J.

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