IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2021

CORAM

THE HON'BLE MS. JUSTICE R.N.MANJULA

Crl.O.P.No.15498 of 2019
and
Crl.M.P.No.7668 of 2019

Mr.Vasanth Chandrasekhar ...Petitioner

Vs.

1. The State Rep.by,
   The Inspector of Police,
   Team XX, EDF 3,
   Central Crime Branch - II,
   Chennai. ..1st Respondent/Complainant

2. Ms.Seetha Padmanabhan ..2nd Respondent/ Defacto Complainant

PRAYER : This Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records in Crime No.62 of 2019 pending on the file of the first respondent police and quash the FIR as against the petitioner.

For Petitioner : Mr.J.Suresh

For Respondents: Mrs.G.V.Kasthuri
Additional Public Prosecutor
for R1
Mr.A.Tamilvan for R2

O R D E R

This Criminal Original Petition has been filed under Section 482 Cr.P.C, to call for the records and quash the FIR proceedings in Crime No.62 of 2019, pending on the file of the first respondent police, as against petitioner.

2.The learned counsel for the petitioner submitted that the transaction between the petitioner/accused and the second respondent/defacto complainant is only a commercial transaction, in which he owes some money. He further submitted that there is no material available to show that he had any intention to deceive the second respondent and all that he had was loss in his business.

3. The learned counsel for the second respondent submitted that it is true that the petitioner and the second respondent had commercial transactions between themselves. It is his submission that only in the year 2016, the petitioner was regular in making payments; after that the second respondent started to supply more goods. At that point the petitioner has changed his colour by stopping the payments. He also influenced the second respondent to procure the products of other agencies and supply them to him, on the assurance that he would generate more profit to her. Believing the words of the petitioner, the second respondent procured the products and supplied the same to the petitioner. Thereafter, the petitioner did not make any payment. When she demanded her dues, a memo of understanding was entered into between the petitioner and the second respondent and the petitioner assured that he would include the second respondent as 5% share holder in his company. But he did not do so. After selling all the products supplied by the second respondent, the petitioner stopped payment with an intention of deceiving the second respondent.

4. Section 415 of I.P.C, the offence of cheating is defined as under:

> "Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to delivery any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat"".
>
> Explanation - A dishonest concealment of facts is a deception within the meaning of this section.

5. Though the petitioner and the second respondent had business transactions, the allegations have been made at the certain point of time when the transaction has got shifted in some other direction and the second respondent was allured by the petitioner to part away with more goods of her own and also to procure the goods from other companies as well. When the second respondent asked the petitioner atleast to return back the goods so that she could sell it some where and raise money, the petitioner did not do that also. These allegations made in the complaint would show that there are prima-facie materials, to register the complaint and to initiate the investigation in order to find out whether the act of cheating was committed by

the petitioner. It is not a case which has stated only about the commercial transaction or just a money transaction between the petitioner and the second respondent. Many of the facts that have been alleged in the complaint are the matters to be investigated.

6. In these type of matters, I do not feel that the inherent jurisdiction of this Court under Section 482 Cr.P.C, should be exercised and the proceedings should be quashed.

7. For the above said reasons, this Criminal Original Petition is dismissed. However, the first respondent is directed to expedite the investigation and complete the same within a period of two months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Pns

To

1. The Inspector of Police,
   Team XX, EDF 3,
   Central Crime Branch - II,
   Chennai.

Copy To

The Public Prosecutor,
High Court, Madras.

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RSI(CO)
RGA(30/11/2021)