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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2021

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.17970 OF 2021

1.R.Kalaimani

2.K.Usha

...Petitioners

Versus

1.The State Rep.by
The Inspector of Police,
Kovilpalayam Police Station,
Coimbatore District.
(Crime No. 505 of 2021)

2.Rajasekaran

...Respondents

Prayer : This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code praying to call for the records in the Crime No.505 of 2021 on the file of first respondent and quash the same.

For Petitioners : Mr.W.Camyles Gandhi

For Respondents : Mr.A.Damodaran for R1
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to call for the records in the Crime No.505 of 2021 on the file of first respondent and quash the same.

2. The case of the prosecution is that the second respondent is the defacto complainant who is working as sales



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executive in a concern by name "Udaan Express", which engages in the business of whole sale and retail sale of provisional items through their application. The petitioners herein, approached the second respondent on 09.07.2021 and ordered 115 boxes of Gold Winner Oil worth about Rs.1,74,640/- and informed that they are going to open a new shop in the name of RS Stores in Kaikolapalayam and for the same they approached to procure the above said provisional things. Initially, it was refused by the second respondent as they have mode of taking orders in application but further in view of the urgency claimed by the petitioners the second respondent took order and supplied the same in the place mentioned by the petitioners. Thereafter, the petitioners asked the 2nd respondent to come to Kalapatti Section to collect the money for the oil boxes but despite the second respondent waiting for several hours in the above said place, the petitioners did not show up. The second respondent approached the shop of the petitioner wherein the goods supplied and found the place empty. The owner of the second respondent identified the petitioners and their vehicle and the same was informed to the second respondent. After thorough search, the second respondent found the petitioner's identity and lodged a complaint against them and an FIR was registered by the first respondent police under Section 420 of IPC.

3. The learned counsel for the petitioners submitted that the entire transaction between the second respondent and the petitioners is a commercial one and the petitioners with an intent to start a business procured various provisions in whole sale from different concerns likewise oil purchased from the 2nd respondent concern. It is also submitted that it was agreed between the petitioners and the 2nd respondent to offer goods in credit basis as the petitioners' shop is a startup one. In view of some financial constrains and due to pandemic, it was difficult for the petitioners to pay the 2nd respondent and the petitioners had no intention to defraud the 2nd respondent herein. Only in view of pressure from the 2nd respondent concern and salary hold on by the concern as lien to the said goods delivered to the petitioners, the FIR was lodged against the petitioners. Now, after the intervention of respectable known persons, both the parties have come to a compromise. Hence, the petitioners have filed this petition to quash the FIR in Crime No.505 of 2021.



4. The case is still at the stage of investigation. By passage of time, the parties have decided to compromise the dispute amicably among themselves.

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5. The Affidavit dated 20.09.2021 has been filed by the second respondent/de-facto complainant before this Court. The second respondent and petitioners present before this Court. In the affidavit, it has been stated that the petitioners and the second respondent have entered into a compromise and amicably settled their issues in Crime No.505 of 2021. This Court also enquired both the parties and was satisfied that the parties have come to an amicable settlement between themselves.

6. Under such circumstances, no useful purpose will be served in keeping the First Information Report pending. Even though, the offence involved is not compoundable in nature, in the light of the guidelines given by the Hon'ble Supreme Court reported in 2017 9 SCC 641-(Parbathbhai Aahir @ Parbathbhai Vs. State of Gujrat), this Court in exercise of its jurisdiction under Section 482 Cr.P.C., inclined to quash the First Information Report in Crime No.505 of 2021.

7. In the result, this Criminal Original Petition stands allowed and as a sequel, the proceedings in Crime No.505 of 2021, on the file of the first respondent police, is quashed and the terms of affidavit shall form part and parcel of this order.

Encl.: Xerox Copy of Affidavit

Sd/-
Assistant Registrar (CS-IX)

// True Copy //

Sub Assistant Registrar

dna/drm

To

1.The Inspector of Police,
Kovilpalayam Police Station,
Coimbatore District.



2.The Public Prosecutor
High Court, Madras.

+1cc to M/s.Camyles Gandhi, Advocate SR.No.53007

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Cr1.O.P.No.17970 of 2021

KSM(CO)
RVM(08/11/2021)