



WEB COPY

Crl.O.P Nos. 7345 & 8385 of 2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2022

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P Nos.7345 & 8385 of 2021

and

Crl.M.P Nos.4889 & 5511 of 2021

Crl.O.P No.7345 of 2021

- 1.V.K.Jaychandran
- 2.V.Gopalakrishnan
- 3.C.Appandi Rajan
- 4.Mithilesh Bhat
- 5.P.Jayadevan
- 6.Abshishek Sharma

... Petitioners

Vs.

- 1.The State
Rep. by Inspector of Police,
G2 Uthiramerur Police Station
Uthiramerur,
Kancheepuram

- 2.T.Dinesh

... Respondents

PRAYER in Crl.O.P No.7345 of 2021: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records in Cr.No.137 of 2021 dated 30.03.2021 on the file of the 1st respondent police and quash the same.



Crl.O.P Nos. 7345 & 8385 of 2021

Crl.O.P No.8385 of 2021

1.Aparna Bhargava
2.D.Madhaneshwaran
3.Gurmeet Singh

... Petitioners

Vs.

1.The State
Rep. by Inspector of Police
G2 Uthiramerur Police Station
Uthiramerur
Kancheepuram

2. T.Dinesh

... Respondents

PRAYER in Crl.O.P No.8385 of 2021: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records in Crime No.137 of 2021 dated 30.03.2021 on the file of the 1st respondent and quash the same.

In both petitions

For Petitioners : Mr.Abdul Saleem

for M/s.AAV Partners

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

Mr.T.Dinesh - R2/party in person

COMMON ORDER

These two Criminal Original Petitions have been filed, seeking to call for the records pertaining to Crime No.137 of 2021 on the file of the 1st



respondent police for the offences under Section 506(i) IPC r/w Section 3(1)(r), 3(1)(g), 3(1)(u), 3(1) (za) (E), 3(1) (zc) , 3(2)(iii), 3(2)(iv) & 3(2) (vi) of the Schedule Castes / Schedule Tribes (Prevention of Atrocities) Act, 1989 and quash the same.

2. In Crl.O.P No.7345 of 2021, the first petitioner is the Executive Director (retd); the second petitioner is the Chief General Manager (retail sales) (retd); the third petitioner is the Senior Manager (retail sales); the fourth petitioner is an employee in their divisional office and he is working as a Senior Officer in the sales department; the fifth petitioner is the Executive Director and State Head; the sixth petitioner is the General Manager (retail sales).

3. In Crl.O.P No.8385 of 2021, the first petitioner is the Chief Project Manager; the second petitioner is the Chief Manager (retail sales) and the third petitioner is the Director Marketing (retd); all these petitioners are employees of the Indian Oil Corporation Limited, Chennai.



WEB COPY

4. Heard the learned counsel appearing for the petitioners as well as the learned Additional Public Prosecutor appearing for the 1st respondent.

5. The learned counsel for the petitioners submitted that the Indian Oil Corporation is a Public Sector Enterprise of the Government of India under the administrative control of the Ministry of Petroleum & Natural Gas; the company deals with the refining and marketing of petroleum products through its dealers; a land measuring an extent of 6756 sq.ft. comprised in Survey No.68/7 B, Uthiramerur Main Road, Vedhapalayam Village, Uthiramerur Taluk, Kancheepuram District was leased out for a period of 20 years by one Mr.T.Gobi Shankar, who is the brother of the 2nd respondent/de-facto complainant through a lease deed dated 30.06.2006 for setting up a retail outlet; through negotiations, the leased out portion has been reduced to 5,440 sq.ft.; after getting due permission from the concerned authorities, a retail outlet was constructed and the petitioner was appointed as a retail outlet dealer for the same; the petitioner was given dealership under the reservation made for Schedule Caste applicants; an agreement was executed between the de-facto complainant and the Indian Oil Corporation on 13.08.2007 in this regard; from the year 2008, the



WEB COPY

dealer/de-facto complainant started making various complaints with regard to stock loss, pipeline leak, electric fault, discrepancy in the RO site extent etc.; the grievance of the petitioners have been redressed and it is ensured that there was no leakage from the tanks or from the pipelines; on 08.12.2008, the 2nd respondent wrote a letter to the Corporation by stating that he could not conduct the retail outlet at Uthiramerur and requested the Corporation to allot COCO (Company Owned & Company Operated) outlet within the limits of Chennai City; the petitioners submitted that the dealer/de-facto complainant also requested to appoint an arbitrator as per the terms of the dealership agreement and the Corporation has also appointed Shri.B.Balya, Senior Consumer Manager, as the Sole Arbitrator on 20.01.2009; but the 2nd respondent failed to make his claim statement before the arbitration, though sufficient opportunities were given to him and hence, on 10.09.2009, the proceedings were terminated; the 2nd respondent has been causing troubles to the Corporation and its authorities in every possible manner; he dragged them to various Court proceedings by filing complaints against the authorities under Schedule Castes / Schedule Tribes (Prevention of Atrocities Act) 1989.



6. The learned counsel for the petitioners further submitted that there is no basis for registering any criminal case against the petitioners who are just employees of the Corporation; the petitioners are not personally related to the 2nd respondent in any way except with regard to the retail outlet dealership given to the 2nd respondent; the petitioners never met the 2nd respondent/de-facto complainant; after his termination of dealership in the year 2013, there is no contact between the 2nd respondent/de-facto complainant and the officials of the Indian Oil Corporation; the allegations made by the 2nd respondent are all baseless and false; the present FIR in Crime No.137 of 2021 is per se illegal and does not disclose any specific allegation in respect of offence or an overtact committed by the petitioners; the transaction between the Indian Oil Corporation and the de-facto complainant is purely civil in nature; the commercial transactions are governed by the terms of the dealership agreement; the de-facto complainant was terminated because he had violated the terms of the contract and the land has also been surrendered to the landlord.; since the allegations made against the petitioners are false and frivolous, the FIR should be quashed.



7. The 2nd respondent/de-facto complainant made his appearance in person and he represented himself. It is learnt that the 2nd respondent/de-facto complainant is an Advocate and has good legal knowledge to submit his arguments.

8. The de-facto complainant submitted that the petitioner-Corporation without following the rules and regulations had established a tank in the retail outlet which would endanger the life of the public and the petitioner; by concealing all these facts, an explosive license was granted; since the dealership was given in the name of the de-facto complainant, the de-facto complainant is answerable for any violation made in this regard. Due to leakage in the ground, there was difference between stored fuel and sold fuel; the de-facto complainant was also made to suffer loss, only in view to avoid endangerment with the public, the de-facto complainant stopped the business of the retail outlet; knowing fully well that it is a tough decision, the petitioners compelled the de-facto complainant to continue his business; the de-facto complainant was threatened that he should not make any complaints for the violations; hence, the de-facto complainant has filed a complaint before the National Commission for Schedule Castes; after



enquiry, the National Commission for Schedule Castes advised the petitioners to erect fresh tanks and compensate the loss suffered by the de-facto complainant; the petitioners are conspired together and caused the disappearance of evidence available in the site; the de-facto complainant belongs to Schedule Castes / Schedule Tribes, but he was harassed in various methods; only in view of that, a case has been registered against the petitioners; since prima facie materials are produced by the de-facto complainant, both the petitions should be dismissed.

9. On the face of it, it appears that there is a dispute between the de-facto complainant and the petitioners in connection with the dealership given to the de-facto complainant for a retail petrol outlet of Indian Oil Corporation. The grievance of the de-facto complainant is that while erecting the tank for storing petrol, due precautions were not taken by the petitioner-Corporation and it was endangering the safety of the public and only for that reason, he could not continue his business. The de-facto complainant himself has stated that he had made the very same complaint before the National Commission for Schedule Castes/Schedule Tribes and the said complaint was closed. The transaction between the petitioner-



Corporation and the de-facto complainant is commercial in nature and it is borne by an agreement between the parties. As per the agreement, the parties have agreed to settle their disputes through arbitration. The de-facto complainant has also made a claim before the Arbitration Tribunal and obtained an Arbitration Award. If the de-facto complainant is aggrieved by the Award of the Arbitration Tribunal, he ought to have challenged the same by filing appropriate proceedings. The land in which the retail outlet was established belonged to the brother of the de-facto complainant and after stoppage of the business, the land was surrendered to the land owner.

10. The records would show that in this regard, the complainant has given a complaint with similar allegations to the Uthiramerur Police Station and on which a case was registered in Crime No.20 of 2020 for the offences under Sections 336, 427, 409, 420 and 506(i) IPC. After investigation, the same was closed as "Mistake of Fact". In order to make out a case under Section 506(i) IPC, I find no materials except the bitter relationship between the de-facto complainant and the petitioners, who are the authorities of the Indian Oil Corporation. The case has been registered under the various provisions of the Schedule Castes / Schedule Tribes (Prevention of



Atrocities) Act 1989. The fact remains that the petitioners have got no personal animosity with the de-facto complainant. Infact, some of the authorities did not even meet the de-facto complainant at any point of time. For a commercial dispute, the remedy open to the de-facto complainant is by way of taking appropriate proceedings before the appropriate forum. The remedy open to the de-facto complainant is predominantly civil in nature and had arisen out of a contract pertaining to a commercial transaction.

11. At no point of time, the petitioners have engaged with the de-facto complainant personally. So, there is no occasion to cause any atrocity against him as alleged by the de-facto complainant. Except the fact that the de-facto complainant has been given with allotment of dealership under the Schedule Castes / Schedule Tribes quota, nothing happened between the Indian Oil Corporation and the de-facto complainant in the contracts has got anything to do with the caste of the parties. Since the parties are governed by the terms of contract and for any violation of the terms of contract, the remedy should be by way of initiating appropriate proceedings before the Arbitration Tribunal, I feel there is no fundamental materials for taking any



criminal action against the petitioners. The de-facto complainant has attempted to give a criminal colour to a commercial dispute. The materials available on record would only show the commercial transaction between the de-facto complainant and the Indian Oil Corporation.

12. Without any grounds to make out any criminal offence against the petitioners, no investigation need to be done by the police by wasting time. The petitioners need not be put to face a criminal case for the alleged violations said to have been committed during the course of the commercial transaction. In this regard, it is relevant to refer the judgment of the Hon'ble Supreme Court held in **Parbatbhai Aahir Vs. State of Gujarat [AIR 2017 SC 4843]**, wherein the proposition with regard to giving criminal colour to civil dispute has been set as under:

"15.The Broad Principles which emerge from the precedents on the subject, may be summarised in the following propositions:-

(i) to (vi).....

(vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or



WEB COPY



predominant element of a civil dispute. They stand on a distinct footing insofar as the exercise of the inherent power to quash is concerned.

(viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute.

13. I feel it is an appropriate case for which the above principles will apply. Since the de-facto complainant has been making similar allegations against the petitioners in various forum and action has already been taken or closed, I find no reason for registering an FIR on the very same allegations. Since the de-facto complainant has not made out any criminal offence and all the allegations made by him are civil in nature, it is appropriate for this Court to invoke the powers under Section 482 of Cr.P.C to quash the proceedings.



14. In the result, these two Criminal Original Petitions in Crl.O.P

Nos.7345 and 8385 of 2021 stand allowed and the proceedings in Crime No.137 of 2021 dated 30.03.2021, on the file of the 1st respondent, is hereby quashed. Consequently, connected Miscellaneous Petitions are closed.

19.10.2022

Index : Yes/No
Speaking Order : Yes / No

uma

To

1.The Inspector of Police,
G2 Uthiramerur Police Station
Uthiramerur,
Kancheepuram

2. The Public Prosecutor
High Court of Madras.



WEB COPY



Crl.O.P Nos. 7345 & 8385 of 2021

R.N.MANJULA, J.,

uma

**Crl.O.P Nos. 7345 & 8385 of 2021
and
Crl.M.P Nos.4889 & 5511 of 2021**

19.10.2022