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Crl.O.P.No.19344 of 2022
& Crl.M.P.No.12748 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P.No.19344 of 2022
& Crl.M.P.No.12748 of 2022

Sameer

...

Petitioner

versus

1.The State Represented by
Inspector of Police,
Anupparpalayam Police Station,
Tirupur City.
(Crime No.216 of 2022)

2.M/s.Rupa & Co. Ltd.,
Rep. by its Manager,
Balumahenthiran, (aged about 40 years)
D.No.387/4, Angeripalayam,
Tirupur.

...

Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to quash the F.I.R. No.216 of 2022 dated 06.04.2022 on the file of the first respondent police.

For Petitioner : Mr.M.Aravind Subramaniam

For Respondent No.1 : Mr.E.Raj Thilak
Additional Public Prosecutor

For Respondent No.2 : Mr.P.M.Duraiswamy

ORDER



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This Criminal Original Petition has been filed to quash the F.I.R. in Crime No.216 of 2022 dated 06.04.2022 on the file of the first respondent police, for the offences under Sections 409 and 420 of IPC.

2. The learned counsel for the petitioner submitted that on 06.04.2022, the first respondent police registered a case against the petitioner in Crime No.216 of 2022 for the alleged offences under Sections 409 and 420 of IPC. In the F.I.R., it is stated that the petitioner is conducting the business in the name and style of M/s.Olive Fashion and doing business of cloth cutting job work and the materials received from the *de facto* complainant, they found some deficit in the return of cloth entrusted to the petitioner and he has not returned cloth worth about Rs.54,57,721.50. Hence, a case has been registered.

3. The learned counsel for the petitioner submitted that there is no allegation of quantity of the cloth entrusted to the petitioner is not mentioned and quantity of the non-return of the cloth is also not mentioned. Further the occurrence and allegations are took place somewhere in Kerala



and the first respondent police has also no jurisdiction to investigate the same, seeking to quash the F.I.R.

4. The learned Additional Public Prosecutor appearing for the first respondent police submitted that the matter is now pending under investigation.

5. I have heard the learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor appearing for the first respondent police and the learned counsel appearing for the *de facto* complainant.

6. On perusal of the records, it is seen that the first respondent police registered a case against the petitioner on a complaint given by one Balumahenthiran in Crime No.216 of 2022 for the offences under Sections 400 and 420 of IPC. A reading of the F.I.R., it is seen that the *de facto* complainant engaged the petitioner for cloth cutting job work. The petitioner running a Olive Fashion Company and usually taking cutting



job work from the *de facto* complainant. On 31.03.2021, while verifying yearly accounts, they found a deficit of 2038.700 kilo of cloth was missing. On enquiry, the petitioner admitted that the deficit is also mentioned in the debit note and taking responsibility of deficit cloth of 2038.700 kilo and therefore, the *de facto* complainant continued his work with the petitioner. Again on 30.04.2021, on verifying the accounts, they found 810.000 kilo of cloth was missing and the missing cloth is worth about Rs.54,57,721.50. Hence, they lodged a complaint.

7. The contention of the petitioner is that the quantity of the cloth entrusted to him and missing quantity is not mentioned in the F.I.R. and how much quantity entrusted and how much quantity was missing has to be find out during the investigation. Therefore, at the initial stage of the investigation, it is not proper to quash the F.I.R. and hence, I find no reason to quash the case registered in Crime No.216 of 2022.

8. Any business transaction may involve under the criminal offence, this Court cannot denude the criminal offence. Therefore, it does not



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meet the parameters laid down by the Supreme Court in *State of Haryana vs. Ch.BhajanLal* (AIR 1992 SC 604), *M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others* (2021 SCC online 315) & *PRATIBHA RANI Vs.SURAJ KUMAR & ANR* (1985 CrI.L.J.817), the matter has to be investigated to find out the truth. Therefore, it is inappropriate to quash the F.I.R. and close the investigation at the beginning stage. Therefore, I find no merit and investigation is to be conducted to find out the truth.

9. Accordingly, the Criminal Original Petition stands dismissed. The first respondent police is directed to complete the investigation in Crime No.216 of 2022 within a period of six (6) months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

27.10.2022

Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

sri

V.SIVAGNANAM, J.

sri



To

1.The State Represented by
Inspector of Police,
Anupparpalayam Police Station,
Tirupur City.

2.The Public Prosecutor,
High Court of Madras,
Chennai.

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