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CrI.O.P No.19112 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2022

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THE HONOURABLE Ms. JUSTICE R.N.MANJULA

CrI.O.P No.19112 of 2019

and

CrI.M.P No.9755 of 2019

Andrew Thomas alias Arul

... Petitioner

Vs.

1.State Tamilnadu

Rep. by

The Inspector of Police

F-1, Chintadripet Police Station

Chennai

2.Revu.Survarnaraju

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the entire records relating to the FIR in Crime No.261 of 2019 registered on 13.06.2019 on the file of the Inspector of Police, F-1, Chintadripet Police Station, Chennai and quash the same as illegal.

For Petitioner : Ms.S.Giritharan

For Respondents : Mr.A.Damodaran for R1
Additional Public Prosecutor
No Appearance for R2



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ORDER

This Criminal Original Petition has been filed seeking to call for the records pertaining to the FIR in Crime No.261 of 2019 on the file of the 1st respondent police and quash the same.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the 1st respondent.

3. The petitioner is the sole accused against whom, the 2nd respondent has given the impugned complaint; the 2nd respondent is known to the petitioner due to a business transaction; the 2nd respondent is running a business in sea foods under the name and style of M/s. Hamsaveni Sea Foods in Andhrapradesh; the petitioner is one of the retail outlets and for whom, the 2nd respondent was supplying the sea foods on credit basis.

4. The allegation made in the complaint is that after receiving the materials like mud crabs (live) for the retail business of the petitioner, he failed to make payments regularly and evaded; the petitioner is said to have



kept an outstanding of Rs.19,35,018/- due to the 2nd respondent; on the above allegations, the above case has been registered.

5. The learned counsel for the petitioner submitted that despite the matter is civil in nature, on the allegation of the 2nd respondent is to recover money, an FIR has been registered and criminal action has been set in motion. It is further submitted that the 2nd respondent has given the very same complaint twice and the same was already closed as civil in nature; once again, the petitioner has given the complaint on the very same allegation and hence, it is not maintainable.

6. The learned Additional Public Prosecutor submitted that the petitioner had cheated the 2nd respondent by assuring that he would make prompt payment and managed to get larger stock of materials and thereafter, he omitted to make payment and hence the case has been registered; there are sufficient materials available to make out a case against the petitioner.

7. The records would show that even in the complaint, the 2nd respondent has stated that he had already given a complaint against the



petitioner on 26.10.2018 before the Commissioner of Police. In view of the said complaint, the petitioner had filed a petition for anticipatory bail in Crl.O.P No.30695 of 2018 and in which, the 2nd respondent has filed an intervening petition and objected the grant of anticipatory bail. In the said matter, the following order has been passed:

"4. Considering the facts and circumstances, the respondent police is directed to conduct the enquiry and if any prima facie case is made out against the petitioner, register the F.I.R or close the petition enquiry within a period of two weeks from today and report before this Court on 21.01.2019. The parties are directed to cooperate with the enquiry.

5.Post the matter on 21.01.2019 for reporting compliance. Till then, the petitioner shall not be arrested by the respondent police.

8. Subsequent to the said direction, the 1st respondent police has submitted a report by stating that after conducting the enquiry, the matter has been closed. The said fact has also been incorporated in the final order passed in Crl.O.P No.30965 of 2018. Once again, the 2nd respondent has given another complaint on 03.02.2019 by making the very same allegations



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of money due. Again, the 1st respondent police had initiated an enquiry in reference No.06/F1 ps/suspe/2019 H-03.12.2019 and sent an intimation to the 2nd respondent to appear for enquiry. However, no further action has been taken on the complaint dated 03.02.2019. But, the 2nd respondent is seen to have given another complaint dated 13.06.2019 and on which, the present FIR has been registered. So, the records would only show that the 2nd respondent has been making frequent complaints on the very same allegations for the amount outstanding due to business transaction between himself and the petitioner.

9. Admittedly, the petitioner and the 2nd respondent have involved in the business of sea foods. While the 2nd respondent is a wholesaler, the petitioner is a retailer. The petitioner was in the habit of getting materials from the 2nd respondent for his business. The allegation is that the petitioner had omitted to make due payments for the materials received by the petitioner from the 2nd respondent. The above allegation would purely show that it is a matter that has arisen out of a business transaction and for which, appropriate remedy for the 2nd respondent would be, by filing civil suits for recovery of money. Since the 2nd respondent has given a criminal



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colour to a civil dispute, I feel it is appropriate to invoke the jurisdiction of this Court under Section 482 of Cr.P.C and quash the proceedings.

10. In the result, this Criminal Original Petition is allowed and the FIR in Crime No.261 of 2019 on the file of the 1st respondent is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

08.12.2022

Index: Yes/No
Speaking Order : Yes / No
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To

1. The Inspector of Police
F-1, Chintadripet Police Station
Chennai

2.The Public Prosecutor
High Court of Madras



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R.N.MANJULA.,J
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