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CRL.O.P.No.19940 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2022

CORAM:

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

Crl.O.P.No.19940 of 2019

and

Crl.MP.No.10226 of 2019

1.G.Sudhakar .. Petitioner / sole accused

Versus

1.The State rep by
Station House Officer (SHO)
Mangalampettai P.S.
Cuddalore District
Cr.No.60/2019

... Respondent/complainant

2.S.Ramesh

... Respondent /*Defacto*
complainant.

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call of the Crime No.60/2019 dated 02.04.2019 on the file of the respondent and quash the same.

For Petitioner : Mr.M.Aswin for Mr.K.Rajan

For Respondent-1 : Mr.A.Damodaran



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For Respondent-2 : Additional Public Prosecutor
Mrs.A.L.Ganthimathi

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.60/2019 dated 02.04.2019 on the file of the respondent.

2.The petitioner is the sole accused in a case in Cr. No.60/2019 dated 02.04.2019 on the file of the first respondent. The above case has been registered on the basis of the complaint given by the second respondent/ *defacto* complainant. The *defacto* complainant is the power agent of his company by name 'Winner Dairy Pvt. Ltd'. The petitioner was the 'Rushi milk' agent of one of the concerns of the *defacto* complainant and he is running an agency 'Duvaragash Agency'. As he was also working as an agent for the 2nd respondent's company 'Winner Dairy Pvt. Ltd.'. he was known well to him. He had business dealings with the *defacto* complainant's company as he was not paying the dues properly, there is an outstanding of Rs.4,31,319/- in his account and for which he gave a cheque drawn from Karur



Visya Bank, Viruthachalem branch dated 22.05.2019 and the same was presented for collection and it was returned as 'insufficient funds'.

When the said fact was informed to the petitioner, he abused him in filthy language and also threatened to kill him, on the above said allegation a case in Cr.No.60/2019 has been registered.

3.The learned counsel for the petitioner submitted that the business transaction between the petitioner and the *defacto* complainant has been exaggerated and was given with a criminal color. If the petitioner had the intention to cause any problem, he would not have gone to the place of defacto complainant and fetched up a quarrel with him. But the facts as appear even from the first information report, the defacto complainant had gone to the business premises of the petitioner; since the business transactions have been exaggerated into a criminal case, this case is liable to be quashed.

4.The Additional Public Prosecutor for the first respondent police submitted that there are enough ingredients available to prove the overtact of the petitioners and to make out a case against the



petitioner, and hence, the investigation should be allowed to go.

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5. The fact that the petitioners and the defacto complainant are known to each other is not denied. Even according to the allegations of the second respondent, the petitioner had business dealings with him. During that course the petitioner is said to have committed default in paying his dues and that had caused to some misunderstanding. It is further submitted that the cheque given by the petitioner towards discharge of the said amount was also returned due to insufficient funds. It is not known whether the second respondent has taken any action under Section 138 of NI Act. The petitioner seems to have sent some communication with the defacto complainants' company by alleging that he was not given with free supply of milk in terms of the business agreement between themselves. The communication between the petitioner and the defacto complainant company and subsequent events would show that the transaction between the petitioner and the 2nd respondent is purely a business transaction and for which the 2nd respondent has filed a criminal complaint.



6. It is also pertinent to note the place of occurrence is said to be the business premises of the petitioner. As rightly pointed out by the learned counsel for the petitioner, it was the second respondent who came to the business premises of the petitioner and the petitioner did not go to the place of occurrence and cause any quarrel or trouble. The materials available on record would only show that the petitioner have dues and due to the business transaction and consequently, the outstanding dues have been exaggerated as a criminal case. Hence, I feel it is appropriate to invoke the powers of this Court under section 482 of Cr.PC to quash the proceedings in the FIR pending on the file of the first respondent police.

Accordingly, this Criminal Original Petition stands **allowed** and the proceedings in Crime No.60/2019 as against the petitioner is quashed. Consequently, connected miscellaneous petition is closed.

07.12.2022

Index: Yes/No
jrs



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R.N.MANJULA, J.,

jrs

To:

1. The Station House Officer (SHO)
Mangalampettai P.S.
Cuddalore District
2. The Public Prosecutor,
High Court, Madras.

CrI.O.P.No.19440 of 2019

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