



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P.Nos.4525 & 4526 of 2017 &
Crl.M.P.Nos.3399 to 3402 of 2017

1. V.Shanmugam

2. Tamilmani ... Petitioners in Crl.O.P.No.4525 of 2017

Suresh Kumar ... Petitioner in Crl.O.P.No.4526 of 2017

Vs

M/s.Jain Granites and Projects India Limited,
Rep. by Mr.S.Kalyanasundaram,
No.89/1, Harrigton road,
Chennai - 600 030. ... Respondent in both the Crl.O.P.'s

COMMON PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records in C.C.No.419 of 2017 pending on the file of the XIV Metropolitan Magistrate, Egmore, Chennai and quash the same.

(For both the Crl.O.P.'s)

For Petitioners: Mr.C.Kanagaraj

For Respondent : No appearance

C O M M O N O R D E R

This petition has been filed to quash the charge sheet in C.C.No.419 of 2017 pending on the file of the XIV Metropolitan Magistrate, Egmore, Chennai filed against the petitioners for the offences punishable under Sections 357, 405, 409, 415, 418, 420 and 422 of I.P.C.

2. The crux of the allegation in the complaint is that the accused induced the complainant to export the goods worth about Rs.1,17,60,642/- to the fourth accused on the promise that he would pay the amount once the goods are exported. Only on such



inducement and the deception made, the goods were exported. After receipt of the goods, the payment has not been made. Therefore, the petitioner is not liable. Similarly, the agreement entered between the parties contain arbitration clause that in the event of any dispute, arbitration can be invoked. Hence, criminal prosecution is not maintainable and the same is abuse of process of law.

3. At the outset, I am unable to persuade myself with such contentions. The allegations in the complaint indicate that there was inducement and deception was present from the inception to export the goods and the goods are said to have been exported only on the inducement of the petitioner, who stood as facilitator. Thereafter, money has not been paid. Whether such inducement was made with an intention to deceive the defacto complainant or not, has to be seen only during the trial. For constituting such an offence, the intention to deceive must be present and the complaint should contain necessary allegations in that regard. Therefore, whether, such inducement has been made with an intention has to be decided only before the trial Court. The other contention that merely because the arbitration clause is provided in the contract, the criminal complaint cannot be maintained, + has no legs to stand. While dealing with a criminal offence what has to be seen is the conduct of the parties and the same has to be decided only before the trial Court. Therefore, the Court does not find any merits to quash the private complaint merely on the ground of submissions and some documents filed in the typed set which has to be proved as per law before the trial Court.

4. Accordingly, this Criminal Original Petitions are dismissed. However, considering the nature of the dispute and in view of the submissions made by the learned Counsel for the petitioners, the personal appearance of the petitioners is dispensed with, except for receiving copies, for answering the charges, for questioning under Section 313 of Cr.P.C. and any other dates fixed by the trial Court. Consequently, the connected miscellaneous petitions are closed.

SD/-

ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR



vrc / kbs
To

1.The XIV Metropolitan Magistrate,
Egmore, Chennai.

2.The Chief Metropolitan Magistrate,
Egmore, Chennai-8.

Copy to

The Section officer,
Criminal Section,
High Court, Madras-104.

CrI.O.P.Nos.4525 & 4526 of 2017 &
CrI.M.P.Nos.3399 to 3402 of 2017

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srg 25/02/2022