



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2022

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL OP(MD) . No.4615 of 2020

and CRL.M.P. (MD)No.2628 of 2020

1. Rajkumar

2. Sankaran

... Petitioners/Accused No 1 & 2

Vs

1. The State represented by
The Inspector of Police,
District Crime Branch,
Thanjavur.
(Crime No.15/2019)

...1st Respondent/Complainant

2. V.Vinayagam

...2nd Respondent/Defacto Complainant

PRAYER :- This Criminal Original Petition filed under Section 482 Cr.P.C.to call for the records relating to the impugned F.I.R registered in Crime No.15/2019, dated 07.12.2019 on the file of the 1st respondent quash the same in so far as the Petitioners/Accused Nos.1 and 2 are concerned.

For Petitioners : Mr.M.Saravanan

For Respondent : Mr.B.Thanga Aravindh

R1 Government Advocate (Criminal Side)
: Mr.R.Narayanan for R2

ORDER

This Criminal Original Petition has been filed to quash the FIR in Cr.No.15 of 2019, on the file of the first respondent.

2.In this case, the petitioners are arrayed as A1 and A2. The complaint lodged by the second respondent on 17.10.2015. On perusal of averments in the FIR, did not disclose any commission of offence, as alleged by the prosecution. The A3 is manufacturing and supplying milk and milk related products for more than 40 years and they are supplying machineries to various companies. The petitioners are working as Sales Managers. While being so, the second respondent purchased machineries on 17.10.2015, warranty period was one year for the machineries supplied by A3. On 02.05.2019, the manager of



the first respondent refused to replace 19 worn out plates in the Chiller on free of cost. Since the warrant period was over and the worn out parts could not be replaced on free of cost. In fact, for changing that plates, the defacto complainant sent a quotation for the expenses. Hence, the petitioners' company gave quotation on 06.05.2019 for a sum of Rs.1,25,000/- (Rupees One Lakh Twenty Five Thousand), excluding tax, supervision charges, commission of work etc. However, the second respondent had run machine for 4 years. Thus, the alleged defects pointed out in the chiller was occurred only due to wear and tear and improper use of machine, in violation of the condition stipulated by the seller. Therefore, it is completely business transaction between the petitioners and the second respondent and no offence is made out as alleged by the prosecution.

3.In this regard, it is relevant to rely upon the Judgment of Honourable Supreme Court of India in the case of ***M/s. Indian Oil Corporation Vs. NEPC India Limited and others [(2006) 6 SCC 736]***, held that the civil liability cannot be converted into criminal liability and held and as under while on this issue, it is necessary to take notice of a growing tendency in business circle to convert purely civil dispute in criminal case.

4.Accordingly, this Criminal Original Petition is allowed and the impugned FIR in Crime No.15 of 2019, is hereby quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PNM

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. The Inspector of Police,
District Crime Branch,
Thanjavur.



2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.M.SARAVANAN, Advocate (SR-13663[F] dated 23/03/2022)

WEB COPY

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and CRL.M.P. (MD)No.2628 of 2020
Date : 22/03/2022

SMV(CO)
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