



Crl.O.P.No.19190 of 2015

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.19190 of 2015

N.Jagadeesh

... Petitioner

Vs

1. The State rep. by
The Inspector of Police,
Tiruppur Rural Police Station,
Tiruppur,
Tiruppur District.
(Crime No.465 of 2014)

2. J.Manoj

... Respondents

PRAYER: Criminal Original Petitions filed under Section 482 Cr.P.C. to call for the records relating to the C.C.No.207 of 2015 on the file of the Judicial Magistrate No.II, Tiruppur, Tiruppur District and quash the same.

For Petitioners : Mr.S.Kamadevan

For Respondent 1 : Mr.L.Baskaran
Government Advocate (Crl.Side)

For Respondent 2 : M.Baskar



Crl.O.P.No.19190 of 2015

WEB COPY

ORDER

This petition has been listed before this Court under the caption "entire bundle not available cases."

2. This Criminal Original Petition has been filed to quash the proceedings in C.C.No.207 of 2015 on the file of the Judicial Magistrate-II, Tiruppur for the offences punishable under Sections.420,294(b) and 506(i) of IPC.

3. The case of the prosecution is that the 2nd respondent lodged a complaint before the Superintendent of Police, Tiruppur on 19.08.2013 alleging that the accused on 03.08.2013, had purchased non-woven cloths as per invoice No.83 to the tune of Rs.1,31,983/-. He had also purchased the some cloths on 14.06.2013 as per invoice No.99 to the tune of Rs.4,63,285/- The petitioner/accused also issued two cheques for the tune of Rs.3,00,000/- and Rs.50,000/- respectively. Both the cheques were presented for collection by the Defacto-complainant and returned dishonour for the reason that "Insufficient Fund". However, for the said



Crl.O.P.No.19190 of 2015

act, complaint was not considered. As such the 2nd respondent filed a petition before the Judicial Magistrate II, Tiruppur for seeking direction under section 156(3) of Cr.P.C. The same was ordered in his favour. Based on the said order/direction, the 1st respondent registered FIR in Cr.No.465 of 2014 for the offences punishable under sections 294(b), 506(i) of IPC. Thereafter, after completion of investigation, the 1st respondent filed final report by altering the offence under sections 420, 294(b) and 506(i) of IPC.

4. The learned counsel appearing for the petitioner submitted that the petitioner had purchased non-woven cloths for the tune of Rs.1,31,983/- by invoice No.83 and Invoice No.99 for the tune of Rs.4,63,285/-. The petitioner also issued two cheques and the same were returned dishonoured. Further, the petitioner had paid sum of Rs.1,00,000/- and remaining amount not paid.



Crl.O.P.No.19190 of 2015

WEB COPY

5. Therefore, the entire allegations are civil in nature and commercial transaction. In pursuant to the commercial transaction, if any money is not claimed from the petitioner, the defacto complainant ought to have filed suit for recovery of money. Even according to the defacto complainant, after the payment of liability, the petitioner failed to repay the remaining amount. Therefore, it would not amount to cheating. He further submitted that in the complaint dated 19.08.2013, there was no whisper about the threaten or abuse by using filthy languages as against the defacto-complainant by the petitioner. Whereas in the complaint lodged before the Judicial Magistrate II, Tiruppur, the Defacto-complainant improved as if the same on 09.08.2023 when the defacto-complainant asked the money from the petitioner, then the petitioner threatened with dire consequences and he was also abused with filthy languages. Therefore, no evidence is made out as against the petitioner and the entire dispute is commercial transaction and civil in nature.

6. The learned Government Advocate (Crl.Side) submitted that the



Crl.O.P.No.19190 of 2015

petitioner admittedly purchased the non-woven cloths and thereafter cheated the Defacto-complainant without paying the sale consideration for the purchased cloths. When the Defacto-complainant asked money, this petitioner threatened with dire consequences and abused with filthy languages. Therefore, specific allegation is made out for the offence under sections 420, 294(b) & 506(i) of IPC. The grounds raised by the petitioner can be considered only before the trial court during trial.

7. Heard, the learned counsel appearing on both side.

8. This petitioner is the sole accused. Admittedly, the 2nd respondent is dealing with non-woven cloths. While being so, this petitioner had purchased non-woven cloths on 03.06.2013 in invoice No.83 weighing at 997.600kg to the tune of Rs.1,31,983/-. Subsequently, on 14.06.2023, again the petitioner had purchased Non-oven Cloths weighing 3474.200Kg to the tune of Rs.4,63,285/-. On the date of purchase, the petitioner had issued two cheques for a sum of Rs.3,00,000/- and Rs.50,000/- respectively. Both the cheques were



Crl.O.P.No.19190 of 2015

presented for collection and returned dishonoured for the reason that “Insufficient Fund”. The 2nd respondent did not initiate any proceedings under section 138 of Negotiable Instruments Act as against this petitioner. Further, the petitioner had paid sum of Rs.1,00,000/- and the balance due amount has not paid. Therefore, the entire transaction are commercial transaction and the allegation made in the complaint are civil in nature. Therefore, new complaint lodged before the Superintendent of Police, Tiruppur dated 19.08.2013 was enquired and closed as civil in nature. However, without considering the allegations leveled as against this petitioner, the learned Judicial Magistrate II, Tiruppur simply forwarded the complaint before the 1st respondent under section 156(3) of Cr.P.C. Based on the order/direction of the said trial court, the 1st respondent registered FIR in Cr.No.465 of 2014. On perusal of the complaint filed before the learned Judicial Magistrate II, Tiruppur revealed that on 09.08.2013, when the 2nd respondent asked money to the petitioner, the petitioner threatened him with dire consequences and abused with filthy languages. Whereas, he filed original complaint dated 19.08.2013 before the Superintendent of Police, Tiruppur wherein the 2nd



Crl.O.P.No.19190 of 2015

respondent did not whisper about said occurrence, which was taken place on 19.08.2013. Therefore, the entire transaction is nothing but clear abuse process of law. The 2nd respondent attempted to given criminal colour for the civil transaction. Hence, the entire proceedings as against this petitioner is not sustainable and liable to be quashed.

9. Therefore, the entire proceedings in C.C.No.207 of 2015 on the file of the Judicial Magistrate II, Tiruppur, Tiruppur District is quashed and this Criminal Original Petition is allowed.

24.11.2023

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
gvn

G.K.ILANTHIRAIYAN, J.



WEB COPY



CrI.O.P.No.19190 of 2015

gvn

To

- 1) The Judicial Magistrate II,
Tiruppur, Tiruppur District
- 2) The Inspector of Police,
Tiruppur Rural Police Station,
Tiruppur,
Tiruppur District.
- 3) The Public Prosecutor,
High Court Madras.

CrI.O.P.No.19190 of 2015

24.11.2023