



Crl.R.C.No.155 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.R.C.No.155 of 2023

Bhawar Sales Corporation
Rep.by its Branch Manager,
Mr.Ramadoss,
S/o.Mani
No.10-C, G-18, Central Warehousing
Corporation, Chitlapakkam,
Chennai-600 064.
...Petitioner

/vs/

1.The Commissioner of Police,
Tambaram Police Commissionerate,
Sholinganallur, Chennai-600 119.

2. The Inspector of Police,
S-12, Chitlapakkam Police Station,
Chitlapakkam,
Chennai-600 064.
...Respondents

PRAYER : Criminal Revision Case has been filed under Section 397 & 401 Cr.P.C., to call for the records pertaining to the order dated 16.11.2022 made in Crl.M.P.No.8468 of 2022, passed by the Judicial Magistrate No.I, Tambaram and set aside the same and allow this Criminal Revision Case.

For Petitioner

... Mr.N.Chandrasekar, Sr. counsel



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for M/s.P.Sathyathan

For Respondents

... Mr.V.Meganathan
Government Advocate (Crl.side)

ORDER

The Criminal Revision Case has been filed challenging the impugned order dated 16.11.2022 passed in Crl.M.P.No.8468 of 2022 by the Judicial Magistrate No.I, Tambaram.

2. The learned counsel appearing for the petitioner contended that the petitioner is the distributor of Procter and Gamble Private Limited, Mumbai, for the whole- sale and retail sale of the products like Gillette Shaving Kit, Vicks, Vap-rup, Whisper, Pampers, Ampipure (room freshener), Pantene shampoo, Ariel and others consumer productions, in respect of the areas of North Tamil Nadu including the City of Chennai. The petitioner has eighteen branches including at Chitlapakkam. Through the eighteen branches, the products are being sold and delivered through the sales representatives after taking orders by them by using the Leap-App. By this, the invoices are prepared, the distribution logistic officer in the godown would check the correctness of all aspects such as description



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of goods, price and other details and send the goods to the customer entity through the vehicles. It is mandatory that the Form under SSR-1 duly prepared in duplicate; one receipt should be handed over to the receiver and another receipt should be handed over to the supplier/petitioner. The amount for the invoice value is normally payable within five days. On receipt of the value of the invoice, it should be recorded in Form SSR-2 and handed over to the branch office on the same day. The cheque/cash would be deposited in the petitioner's HDFC Bank account on the next working day.

3. Accordingly, the goods were supplied from the petitioner's godown at Chitlapakkam in and around locality through the sales representative as per the procedures as stated above. While so, the petitioner did not receive the amounts for the months from 01.07.2021 to 31.11.2021 from the customers. When the same was questioned, the sales representatives informed the petitioner that the amount will be remitted by the shop owners within one week. On enquiry with the shop owners it came to light that they did not place any order or received any goods and only the accused



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persons have created fake orders as if the orders were placed by the shop owners and had taken the goods from the godown of the petitioner. On further enquiry and verification, the buyers/shop owners informed that the acknowledgement signature and seal mentioned in the Invoice/delivery challan mentioned in their names are fabricated. The shop owners further informed that the accused persons have used to drop the goods in front of their shops and the next day, the same will be taken away by them in another vehicle. In this regard, the suppliers have also made a written complaint to the petitioner. Thereby, the accused persons being the sales representatives had stolen the stocks sold through another sales representatives and cheated the complainant to the tune of Rs.40,00,000/-. The goods were supplied to the whole-sale vendors and sold through fake receipts and stamps to various shops. Various drivers were engaged by the accused persons for their illegal and dubious acts and consequently, they have cheated the complainant to the tune of Rs.40,00,000/-.

4. In such circumstances, the petitioner was constrained to lodge a complaint dated 30.11.2021 to the 2nd respondent police, seeking for



registration of FIR as against the accused persons and take action in accordance with law. Based on that, C.S.R No.670 of 2021 was issued to the petitioner on 04.12.2021. As there was no further action on the complaint dated 30.11.2021, the petitioner also made a complaint dated 01.07.2022 to the 1st respondent. However, there was no affirmative action on the part of the respondents. The inaction on the part of the respondent police had further emboldened the accused persons and they are left scot-free. In addition, the accused persons have engaged local thugs and they are making anonymous calls to the petitioner's officials and constantly threatening him with dire consequences. Hence, the complainant was constrained to file Crl.M.P.No.8468 of 2022 under Section 156(3) of Cr.P.C. read with 190 of Cr.P.C., before the Judicial Magistrate Court No.I, Tambaram, seeking for issuance of directions to the 2nd respondent to register the F.I.R. under Sections 420, 405, 408, 378, 403, 468, 411, 468, 120-B and 506 (1) I.P.C. and under the provisions of Information Technology Act, 2000, as against the accused persons and their henchmen and take action in accordance with law, based on the complainant's complaint dated 30.11.2021.



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5. The learned counsel for the petitioner further contended that, in view of the aforesaid illegalities perpetuated, it can be clearly gauged that the accused persons have jointly and severally committed series of offences such as cheating, theft, criminal breach of trust, fraudulent inducement, misappropriation, forgery and falsification of documents, criminal intimidation, etc., However, the learned Magistrate in a mechanical and cursory manner dismissed the Crl.M.P.No.8468 of 2022 vide order dated 16.11.2022, observing that the disputes are civil in nature. Hence the Revision.

6. I have considered the submissions of the parties and perused the materials available on record.

7. On perusal of the records, the fact reveals that the Trial Court failed to understand the allegations that have stated in the complaint, had mechanically dismissed the same as the same is civil in nature. There is a specific allegations raised by the complainant that the buyers', shop owners' name, signature and seal were fabricated by the accused persons and



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they had used the goods for their unlawful benefit and thereby taken the amount of Rs.40,00,000/- by selling the goods. In this circumstance, dismissing the complaint on the ground of civil in nature is unsustainable. Hence the impugned order is liable to be set aside.

8. In the result, this ***Criminal Revision Case is allowed***. The order passed by the Judicial Magistrate No.I, Tambaram, in Crl.M.P.No.8468 of 2022 is set aside. The learned Magistrate is directed to take cognizance of this complaint and after recording the complainant's evidence and document, consider the case on merits and decide whether to forward the same to the Inspector of Police for further investigation or the Court itself to take cognizance and proceed with this matter. Such exercise shall be completed within a period of two weeks from the date of receipt of a copy of this order.

Index : Yes/No
Internet : Yes/No
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V.SIVAGNANAM ,J.

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To

1.The Judicial Magistrate No.I, Tambaram

2.The Commissioner of Police,
Tambaram Police Commissionerate,
Sholinganallur, Chennai-600 119.

3. The Inspector of Police,
S-12, Chitlapakkam Police Station,
Chitlapakkam,
Chennai-600 064.

4.The Public Prosecutor,
High Court, Madras.

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