



CrI.O.PNo.6138 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CrI.O.P.No.6138 of 2021

and

CrI.M.P.No.4041 of 2021

1.R.Ravi

2.R.Raj

...Petitioners

Vs.

1.State rep. By
Inspector of Police,
Magudanchavadi Police Station,
Salem District.
(Cr.No.96/2021)

2.M/s.ENES TEXTILE MILLS,
Rep. By its Authorised Signatory,
S.Narayanan, S/o. Sankara Kuthalam,
8/3-C, Sengunthapuram,
1st Street, Mangalam road,
Tirupur – 641 604.

...Respondents

Prayer:- Criminal Original Petition filed under Section 482 of Cr.P.C.,
calling for the entire records in connection with Crime No.96 of 2021 on the
file of the respondent and quash the same.



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For Petitioners : Mr.R.Ezhilarasan

For Respondents : Mr.A.Damodaran

Additional Public Prosecutor

Mr.A.Swaminathan for R2

ORDER

This petition is filed to quash the First Information Report in Crime No.96 of 2021 for the offences under Section 420, 482, 483 of IPC and 63(a) of the Copyright Act.

2.It is alleged in the First Information Report that the petitioners designed a logo similar to that of the 2nd respondent's logo; that the words in the logo was deceptively similar to the words in the 2nd respondent's logo and that by infringing the trademark and copyright of the 2nd respondent, the petitioners sold the textiles to the general public making them believe that the products were that of the 2nd respondent.



3.The learned counsel appearing for the petitioners would submit that

Sections 482 and 483 is not made out and the word Trademark has been omitted in the two provisions by virtue of the Act 43 of 1958. The learned counsel would further submit that offences under Section 63 of the Copyright Act is non-cognizable offence and offences alleged under Section 420 I.P.C. is not made out on the allegations in the First Information Report.

4.The learned counsel appearing for the 2nd respondent and the learned Government Advocate (Crl. Side) would submit that even if the offences under Sections 482 and 483 of IPC are not made out, the offence under Section 63 of the Copyright Act can be investigated into by the first respondent, since it is a cognizable offence. Further, the question whether the allegations attract the offence of cheating has to be investigated and hence, prayed for dismissal of the quash petition.

5.This Court, on perusal of the impugned First Information Report finds that Sections 482 & 483 of IPC are not made out in the fact and circumstances of the case. The word "Trademark" has been deleted from



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the two provisions by the Trademark Act 43 of 1958. Regarding offences under Section 63 of Copyright Act, this Court finds that the Hon'ble Supreme Court in **Knit Pro International Vs. State of NCT of Delhi and Another** reported in **(2022) 10 SCC 2021** held that the said offence is cognizable. The question as to whether 420 I.P.C. or any other offence is made out on the allegation has to be ascertained by the 1st respondent during investigation. Hence, this Court is not inclined to quash the First Information Report in respect of the offences of Section 63 of the Copyright Act and Section 420 I.P.C.

6.In view of the same, this Criminal Original Petition is dismissed.
No costs. Consequently, connected miscellaneous petition is closed.

19.04.2023

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Internet : Yes/No

Index: Yes/No

Speaking / Non-speaking order

Nuetral Citation :Yes/No



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To:-

- 1.The Inspector of Police,
Magudanchavadi Police Station,
Salem District.
- 2.The Public Prosecutor
High Court of Madras,
Madras.



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SUNDER MOHAN, J.

KKN

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19.04.2023