



Cr1.RC.No.653 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Date of Reserving Order 11.04.2023	Date of Pronouncing Order 19.04.2023
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CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

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M/s.Superfine Bleaching Company Ltd.,
Represented by its Manager
11D, Gandhipuram
Komarapalayam 638 183

... Petitioner

Vs.

1.The Inspector of Police
Komarapalayam P.S.
Komarapalayam
Namakkal District

2.M/s.Allkas Spinning Mills (P) Ltd.,
Represented by its Director
Pethamkotai
Nagamalai Post
Moolappatti Village
Aravakurichi Taluk
Karur 639 109.

3.Anand
Director
M/s.Allkas Spinning Mills (P) Ltd.,
Pethamkotai
Nagamalai Post



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Moolappatti Village
Aravakurichi Taluk
Karur 639 109.

4.M.S.A.Sankaralingam
C/o.Allkas Spinning Mills (P) Ltd.,
Pethamkotai
Nagamalai Post
Moolappatti Village
Aravakurichi Taluk
Karur 639 109.

... Respondents

Prayer: Criminal Revision Case filed under Section 397 & 401 of Cr.P.C., against the order dated 09.12.2022 passed by the Judicial Magistrate, Komarapalayam in CMP.No.797/2022 and to set aside the order of the Judicial Magistrate, Komarapalayam dated 09.12.2022 passed in CMP.No.797/2022.

For Petitioner	: Mr.S.Radhakrishnan
For Respondent	: Mr.R.Vinoth Raja (for R1) Government Advocate

O R D E R

This Petition has been filed to set aside the order of the learned Judicial Magistrate, Komarapalayam dated 09.12.2022 passed in CMP.No.797/2022.

2.The Complainant preferred complaint under Section 156(3) of the Cr.P.C., for a direction to the first Respondent to register the complaint dated



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03.02.2022, addressed to the Superintendent of Police dated 11.02.2022 and further complaint dated 14.05.2022.

3. According to the Petitioner, owing to the job work for fibre dyeing service extended to the 2nd Respondent, an amount of Rs.38,37,972/- was due and payable by the 2nd Respondent to the Petitioner. Despite the pendency of the Suit at the Company Law Tribunal, the Petitioner accepted the proposal of OTS offered by the 2nd Respondent for payment of Rs.15,00,000/-, towards the payment of the due payable to the Petitioner by the 2nd Respondent company. The OTS proposal was finalised on 20.10.2020 at the Petitioner's office. In that meeting, the 4th Respondent also participated. After discussion, the 4th Respondent issued a cheque bearing No.011502 dated 26.10.2020 drawn on Viswakarma Sahakara Bank Ltd., Head Office Branch, Car Street, Mangaluru 575001 for a value of Rs.15,00,000/-. After a passage of 2 days, the 3rd Respondent, who is the Director of the Company, requested the Petitioner to withhold the cheque and not to present the cheque into the bank. Subsequently, he did not give any date for presentation of the cheque into the bank and kept on avoiding the Petitioner's requests and only then the Petitioner realised that



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they were cheated by the 2nd Respondent company.

4.The Petitioner sent a registered letter under acknowledgement due to the 3rd Respondent, who is the Director of the 2nd Respondent company and also who participated in the discussion towards the finalization of OTS, with a request to make the full payment of Rs.38,37,972/- immediately and the letter issued by the revision petitioner was returned as refused and hence he alleged that Respondents 2 to 4 has committed fraud and cheating under Sections 34, 120-B & 420 of IPC. The said petition was not taken on file and returned, subsequently, after hearing the parties and perusal of the records, learned Judicial Magistrate, Komarapalayam has come to the conclusion that the allegation made in the complaint is truly civil in nature and does not constitute criminal offence and does dismiss the complaint. Hence the revision.

5.Heard the learned counsel for the Petitioner and the learned Government Advocate for R1.

6.Learned counsel for the Petitioner would draw my attention that the



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Respondent herein issued a cheque on 26.10.2020 for Rs.15,00,000/- towards one time settlement, as agreed between the parties and there is also a Momorandum of Understanding and there is pre-existing liability. Without receiving the legal notice, the Respondent Company is evading the service and hence committed cheating.

7.This Court has given its anxious consideration for the said contention of the learned counsel for the Petitioner. Going by the averment made in the complaint, I find that there was a civil dispute between the parties for the supply of materials and there was a settlement, for which, as full and final settlement Rs.15,00,000/- was arrived and cheque was issued. When that being the case, it is always open to the Petitioner to present the cheque for realisation, no reason is ascertained as to why he has not presented the cheque.

8.Be that as it may, after going through the averments and facts of the case as disclosed in the complaint, I find that the ingredients of offence under Section 420 IPC is not made out. In the absence of any ingredients for the offence under Section 417 IPC, which is punishable under Section 420, learned



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Judicial Magistrate has rightly come to the conclusion that the matter is civil in nature. Such a finding is well considered and well merited, does not warrant any interference of this Court at the Revision stage and hence I am not inclined to entertain this Petition.

9.In fine, with the above observation this Revision Petition is dismissed at the admission stage itself.

19.04.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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To
1.The Judicial Magistrate,
Komarapalayam

2.The Public Prosecutor,
High Court,
Chennai.



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RMT.TEEKAA RAMAN.J,

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Pre-delivery Order made in

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Dated: 19.04.2023