



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.Nos. 7920 & 12902 of 2021

and

Crl.M.P.Nos.5245, 7129 & 7131 of 2021

Ibrahim Kaleel

... Petitioner

[in Crl.OP.No.7920/2021]

S.C.Balaji, Manager,
LCC Mills Pvt Ltd.,
No.60, Appachi Nagar Main Road,
Kongu Main Road,
Tirupur - 641607.

... Petitioner

[in Crl.OP.No.12902/2021]

Vs.

1.The State Rep. by
Inspector of Police,
North Police Station,
Tirupur City, Tirupur District.
[Crime No.1436/2019]

... Respondent

[Respondent in both Crl.OPs]

2.S.C.Balaji, Manager,
LCC Mills Pvt Ltd.,
No.60, Appachi Nagar Main Road,
Kongu Main Road,
Tirupur - 641607

... Respondent

[2nd respondent in Crl.OP.No.7920/2021]



PRAYER in Crl.O.P.No.7920/2021: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code to call for the entire records pursuant to the case in Crime No.1436 of 2019 on the file of the 1st respondent.

For Petitioner : M/s.K.Sudhakar

For Respondents : Mr.A.Damodaran, Addl. Public Prosecutor [R.1]
: Mr.MA.P.Thangavel [R.2]

PRAYER in Crl.O.P.No.12902/2021: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code to call for the entire records pertaining to taking cognizance and issued the summons in MC.No.18/2020 on the file of the Judicial Magistrate Court No.1, Tiruppur in Crime No.1436/2019 on the file of respondent police and quash the same as illegal incompetent and ultra vires and may pass such other or further orders as this Hon'ble Court

For Petitioner : Mr.MA.P.Thangavel

For Respondents : Mr.A.Damodaran, Addl. Public Prosecutor [R.1]

**COMMON ORDER**

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Crl.O.P.No.7920 of 2021 is filed to quash the FIR in Cr.No.1436/2019 for alleged offences under Sections 294(b), 405, 418, 420 & 506(1) IPC and Crl.OP.No.12902 of 2021 is filed by the defacto complainant in Cr.No.1436/2019 challenging the notice issued by the learned Magistrate under Section 195 read with Section 340 Cr.P.C.

[Crl.O.P.No.7920 of 2021]

2. It is alleged in the FIR that the de facto complainant had supplied yarn to the petitioner and the petitioner did not make payment for the said purchase; that the petitioner instead promised to execute a sale deed in respect of two of his properties and in spite of repeated demand and request, the petitioner neither paid the sale consideration nor executed the sale deed as promised by him.

3.(a). The learned counsel for the petitioner would submit that the impugned FIR is an abuse of process of law since they had paid the entire sale consideration and also executed the sale deed and relied upon the letter issued by the bank confirming the fact that the money was transferred by RTGS to the de facto complainant on 13.01.2020.



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3.(b). The learned counsel further submitted that the sale deed was also executed as promised by a registered document bearing no.5684/2019 on the file of the Sub Registrar, Annur. The learned counsel further submitted that this petitioner had applied for anticipatory bail before this Court and this Court while considering the anticipatory bail found that the 2nd respondent/de facto complainant had suppressed certain vital facts and directed the learned Magistrate to enquire and take action in terms of Section 195 read with Section 340 Cr.P.C.

4. The learned counsel for the de facto complainant and the learned Additional Public Prosecutor would submit that the impugned FIR discloses the offenses alleged and prayed for dismissal of the quash petition.

5. This Court on perusal of the documents and the order passed by this Court in anticipatory bail finds that the petitioner had settled the entire amount due to the 2nd respondent/de facto complainant. The 2nd respondent/de facto complainant also does not dispute the said fact. In any case, the allegation only relates to civil transaction of goods supplied and non-payment and does not disclose any of the alleged offenses. Hence this impugned FIR is an abuse of process of law and is liable to be quashed.



[Crl.O.P.No.12902 of 2021]

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6. As regards the Crl.OP.No.12902 of 2021, the petitioner has challenged the notice issued by the learned Magistrate under Section 195 read with Section 340 Cr.P.C.

7. The said notice was issued pursuant to the directions of this Court in Crl.O.P.No.2337 of 2020 which was filed by the accused in Crime No.1436 of 2019, wherein this Court had observed that the de facto complainant had suppressed certain facts and filed a petition under Section 156(3) Cr.P.C. before the learned Magistrate to obtain orders for registration of FIR.

8. The learned counsel for the petitioner would submit that the petitioner is only a manager of M/s. LCC Mills Pvt. Ltd and he had instituted the complaint only on the directions of the Management. He has no personal knowledge about the transactions between the management and the accused company and hence he is not guilty of making any false representation.



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9. This Court is of the view that the petitioner's complaint has resulted in the registration of FIR in Crime No.1436/2019 and if the petitioner is guilty of suppression of material facts in his application before the learned Magistrate, he is liable for the offence and the proceedings of the learned Magistrate cannot be faulted. Further, the said proceedings have been initiated only on the direction of this Court.

10. However, considering the fact that the petitioner is only a manager of M/s.LCC Mills Pvt. Ltd. and the fact that now the parties have sorted out the issues between themselves as observed by this Court earlier while discussing the quashing of the FIR in Criminal OP.No.7920/2021, this Court is of the view that the learned Magistrate may not proceed with the impugned proceedings in view of the subsequent developments. Hence, the notice in M.C.No.18 of 2020 on the file of the Judicial Magistrate Court No.1, Tirupur in Crime No.1436 of 2019, on the file of the respondent police is quashed only on the aforesaid grounds.



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11. With the above observations, these Criminal Original Petitions are allowed. Consequently, connected Criminal Miscellaneous Petitions are closed.

26.06.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation :Yes/No
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To,

1.The Inspector of Police,
North Police Station,
Tirupur City, Tirupur District.

2.The Judicial Magistrate Court No.1, Tiruppur.



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Crl.O.P.Nos.7920 & 12902 of 2021

SUNDER MOHAN. J.

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