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Crl.O.P.No.21570 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2023

CORAM:

THE HONOURABLE MS JUSTICE R.N.MANJULA

Crl.O.P.No.21570 of 2021

1. E.Kumar
2. M.Aneesh

... Petitioners / Accused

Vs.

State rep. by its,
The Inspector of Police,
IPR Enforcement Cell Unit-I,
Chennai.

... Respondent

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to quash the FIR in Crime No.33 of 2018 on the file of the Inspector of Police, IPR Enforcement Cell Unit-I, Chennai.

For Petitioners : Mr.K.Sivaprakash

For Respondent : Mr.A.Gopinath,
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition is filed to quash the FIR in Crime No.33 of 2018 on the file of the Inspector of Police, IPR Enforcement Cell Unit-I, Chennai.

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2. The petitioners are the first and second accused. On the complaint given by the defacto complainant, a case has been registered in Crime No.33 of 2018, for the offence under Section 51 (b) (i) r/w Section 65 of Copy Right Act, 1957. The defacto complainant who was the Regional Director-South India of M/s.E.I.P.R.(India) Private Ltd., is said to have conducted a survey and submitted a report that the petitioners were selling duplicate products of M/s.JSW Roofing Sheets at M/s.Smart Roofing Private Limited, No.4/70, Bypass Service Road, Keema Nagar, Thandalam (Post), Koovur (via) behind Joseph College, Chennai 600 122.

3. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl. Side) appearing for the respondent.

4. The learned counsel for the petitioners submitted that despite the complaint is of the year 2018, and the offence under Section 65 of the Copy Rights Act, 1957 is punishable for maximum imprisonment of two years, so far investigation has not been completed and the charge sheet has not been laid. Since the case is purely barred by limitation, FIR should be quashed.



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The learned counsel for the petitioner further submitted that the petitioners have purchased the product from M/s.Adhira Steels; but the said seller has not been implicated as an accused.

5. The learned Government Advocate (Crl. Side) submitted that the investigation has been completed and the charge sheet will be laid shortly.

6. The records would show that the complaint has been given on 12.02.2018, on which date, the defacto complainant was known about the sale of duplicate items by the petitioners. The complaint has been given on the same day when the offence was committed. It is to be noted that the petitioners have purchased the alleged products from M/s.Adhira Steels, but the said seller has not been implicated as an accused in this case.

7. In the counter filed by the respondent Police, it is mentioned that due to Covid 19 pandemic, the investigation officer could not complete the investigation and prepared only a draft charge sheet. Further it has been stated in the counter that the duplicate roofing sheet that has been seized in



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the petitioners' firm, has been sent to E.I.P.R. for comparison of original sheet and the report confirmed that it is a duplicate product. Despite the same, investigation has not been completed. The delay alone cannot be the reason to quash the FIR. But when materials have been purchased from some other source by the petitioner, the person who sold the material to the petitioner has not been examined. Even though there are records to show that the petitioner himself has purchased it from some other source, the facts about the bill and source have not been enquired. By keeping these fundamental facts, the investigation cannot go anywhere. The delay coupled with the other reasons stated can very well serve as the ground for quashing FIR. Hence, I feel it is appropriate to quash the proceedings as against the petitioners. This Criminal Original Petition is allowed accordingly. The FIR in Crime No.33 of 2018 on the file of the respondent Police is hereby quashed.

06.01.2023

vum
Index:yes/No
Speaking order / Non speaking order



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To

1. The Inspector of Police,
IPR Enforcement Cell Unit-I,
Chennai.
2. The Public Prosecutor,
Madras High Court,
Chennai.



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R.N.MANJULA,J.

vum

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