



Crl.O.P.No.23605 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.23605 of 2019

and

Crl.M.P. Nos.12441 & 12442 of 2019

Murali

... Petitioner

Vs.

Mathappan

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records and quash the criminal proceeding as against the petitioner in C.C.No.297/2018 on the file of the learned Judicial Magistrate -1, Mettur.

For Petitioner : M/s. V.Vijayakumar

For Respondents : No Appearance [Notice served]



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ORDER

This Criminal Original Petition has been filed to quash a private complaint for the alleged offences under Section 294(b), 506(ii) & 420 IPC against the petitioner in C.C.No.297/2018 on the file of the learned Judicial Magistrate -1, Mettur.

2. It is alleged in the complaint that the petitioner is a proprietor/dealer of Shivasakthi Motors. The complainant had booked a two wheeler, namely, "Hero Passion Pro", bearing Chassis No.MBLHR188HHK60474, Engine No.HA10ACHHK31069 on 29.04.2018 from the petitioner and he had paid a sum of Rs.65,000/-. The vehicle was registered on 07.06.2018 and in the Registration Certificate the month and the year of manufacture was shown as October 2017.

3. The complainant has stated that he was shocked to see the Registration Certificate wherein the date of manufacture is shown as October 2017, since he was under the impression that the vehicle sold to him was manufactured in the year 2018. When he questioned the petitioner about this anomaly, he had abused him with filthy language.



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4. Two notices were issued to the respondent. The learned counsel for the petitioner would submit that the 1st notice was served on the respondent. A perusal of the record would show that the 2nd notice was returned with the endorsement 'refused'. In any case, since the respondent has refused to receive the notice, it is deemed service of notice on him. However, the respondent has not entered appearance.

5. The learned counsel for the petitioner would submit that when the respondent had paid the consideration for the two wheeler, the details of Engine Number and Chassis Number were mentioned and all the particulars of the vehicle was clearly informed to him. There is no deception practiced by the respondent. As regards the allegation of abusing the de-facto complainant with filthy language, the learned counsel would submit that he had earlier given a police complaint in which he had not mentioned anything about the alleged acts amounting to offences under Section 294(b) and 506 (ii) IPC.



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6. The complaint does not spell out as to what is the nature of deception practiced by the petitioner. All that the complainant states is that he was shocked to see the Registration Certificate wherein the date of manufacture of the vehicle is shown as October 2017. It is not the case of the complainant that a false representation was made to make him believe that the two-wheeler was manufactured on a particular date and only because of that representation he purchased the two wheeler. The essential ingredient of deception is not found in the complaint.

7. As regards the allegation that the petitioner had abused the de-facto complainant with filthy language, this Court finds that in the earlier complaint given to the police which was closed directing the de-facto complainant to pursue his remedy in a Court of law, there is no such allegation against the petitioner that he had abused the de-facto complainant.

8. If the de-facto complainant is aggrieved by the year of manufacture it is open for him to pursue other remedies available in law. However, no offence of cheating is made out. As stated earlier the offences under Section



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294(b), and 506 (ii) appear to be an afterthought.

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8. For all the above reasons, the impugned complaint is quashed and the Criminal Original Petition stands allowed. Consequently, the connected Miscellaneous Petitions are closed.

08.03.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
shr

To
The Judicial Magistrate - I, Mettur.



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SUNDER MOHAN. J.

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