



Crl.O.P.No.29525 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2023

CORAM:

THE HON'BLE Ms.JUSTICE R.N.MANJULA

Crl.O.P.No.29525 of 2019 and
Crl.M.P.No.15919 of 2019

Dr.S.U.Basavaraja

... Petitioner / 4th Accused

Versus

1.State By

The Inspector of Police,
District Crime Branch,
Krishnagiri District,
Krishnagiri.

... Respondent / Complainant

2.The General Manager,

Dharmapuri District Co-operative
Milk Producers Union Limited,
Krishnagiri District,
Krishnagiri.

... Respondent/ Defacto-
Complainant

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records in connection with Crime No.12 of 2019 on the file of 1st respondent police herein and quash the same.

For Petitioner
For Respondents

: Mr.R.Jayaprakash
: Mr.A.Gopinath
Govt. Advocate (Crl.side) for R1



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ORDER

WEB COPY This Criminal Original Petition has been filed to quash the proceedings in Crime No. 12 of 2019 on the file of 1st respondent police.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the first respondent.

3. The petitioner is the fourth accused and he was the General Manager of the Dharmapuri District Co-operative Milk Producers Union Ltd. As per the case of the prosecution, the petitioner along with the Marketing and Production Managers by name Jai Vigneshwar and KSS.Prasad had sold 60,000 litres of milk per day from 04.01.2019 to 31.01.2019 to M/s.Aaruthra Milk International Pvt. Ltd., Coimbatore without collecting advance amount from them and incurred loss to the amount of Rs.2,31,12,232/-.

3.1. The Dharmapuri District Co-operative Milk Producers Union Ltd., has been procuring milk of 2,50,000 litres per day, out of which,



WEB CONTENT

1,65,000 litres are being sent to Tamil Nadu Co-operative Milk Producers Federation Limited and around 27,000 litres would be dispatched for local sales and there was a surplus of 58,000 litres of milk which was sent for conversion into butter to make other dairy products and it created huge loss to the Union. In order to reduce the existing financial constrain, the Union had planned to sell surplus milk at profit rate to a private dairy / trader. At that time, M/s.Aaruthra Milk International Pvt. Ltd. made an offer dated 28.12.2018 and expressed willingness to purchase 60,000 litres of milk per day. The Union accepted to sell the milk to M/s.Aaruthra Milk International Pvt. Ltd. and submitted a letter to the Tamil Nadu Co-operative Milk Producers Federation limited, agreeing to purchase the milk at Rs.230 per kg total solid.

3.2. The sale has been commenced from 04.01.2019 and later to the shock of the petitioner, he came to know that the milk was sold on credit basis. When the petitioner contacted the Managing Director and the General Manager of M/s.Aaruthra Milk International Pvt. Ltd., they issued two cheques of Rs.50,00,000/- each, which was realized by the Union.



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Thereafter, the petitioner obtained two more cheques for a sum of Rs.2,00,00,000/- but those were dishonoured. Thereafter, the petitioner stopped further supply of milk. M/s.Aaruthra Milk International Pvt. Ltd. wrote a letter to the General Manager of the Union and undertook to pay the outstanding of Rs.2,36,61,105/-. The petitioner has initiated a complaint against M/s.Aaruthra Milk International Pvt. Ltd. on 15.03.2019 and also filed a case for the offence under Section 138 of Negotiable Instruments Act. Even though the petitioner had taken necessary steps to recover the dues, he was slapped with a charge memo and now kept under suspension. The accused 1 to 3 have filed a petition in Crl.O.P.No.23401 of 2019 seeking to quash the FIR in Crime No.12 of 2019 and stay has been granted. The FIR is nothing but an abuse of process of law and it has been registered with ulterior motive and hence it should be quashed.

4. The learned counsel for the petitioner submitted that the second respondent / defacto complainant is trying to initiate criminal proceedings against the petitioner and it is totally unjust; the transactions are purely civil in nature; the second respondent is trying to give a criminal colour to a



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matter which is civil in nature; the complaint given by the second respondent does not disclose this petitioner's name and the role played by him; hence the FIR should be quashed.

5. The learned Government Advocate (Crl.Side) submitted that the FIR is in the threshold stage and only if the first respondent is allowed to investigate, the criminal role played by the petitioner can come to light.

6. The petitioner is not a named accused in the FIR in Crime No.12 of 2019. The Criminal Original Petition filed by the accused 1 to 3 in Crl.O.P.No.23401 of 2019 has been dismissed on 04.01.2023. It is observed that the investigation should be allowed to go on in order to find out the various facts surrounding the case. Even though the case appears to be civil in nature, the intention of the petitioner in making the Union to commit in the deal with M/s.Aaruthra Milk International Pvt. Ltd. cannot be known until a detailed investigation is done. The second respondent who has given the present complaint is the present General Manager of the Dharmapuri District Cooperative Milk Producers Union Ltd. Unless a detailed



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investigation is allowed to be done, it is not possible to know whether the petitioner had also played a role in stopping the payments and allowed the loss to accrue to several lakhs. Since it has been already ordered by this Court in Crl.O.P.No.23401 of 2019 to continue the investigation, I find no reasons to quash the proceedings in Crime No.12 of 2019.

7. In view of the above stated reasons, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

30.01.2023

Index: Yes/No
Internet: Yes/No
gsk



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WEB COPY

To:

- 1.The Inspector of Police,
District Crime Branch,
Krishnagiri District,
Krishnagiri.
- 2.The Public Prosecutor,
High Court, Madras.



WEB COPY



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R.N.MANJULA, J.,

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and
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