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Crl.O.P.No.24687 of 2023

N THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2023

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THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.24687 of 2023
and
Crl.O.P.Sr.No.51069 of 2023
and
Crl.M.P.Nos.17175 & 51069 of 2023

Seetha Raman ... Petitioner in Crl.O.P.No.24687 of 2023

Vijay Tendulkar ...Petitioner in Crl.O.P.Sr.No.51069 of 2023
Vs.

1. The State

Rep. By Inspector of Police,
Central Crime Branch – II, EDF -II,
Egmore, Chennai – 600 008.

2. M/s. Amman Try Sponge & Power (P) Ltd,
Rep by its General manager K.Chandrasekaran,
No.46, Usman Ali Street,
TVS Toll Gate,
Trichy, Tamil Nadu – 620 020

...Respondents in both Crl.O.Ps.

Prayer in Crl.O.P.No.24687 of 2023: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleased to call for the Records in charge sheet in C.C.No.43 of 2015 pending on the file of the learned Judicial Magistrate No.I, Poonamallee and quash the same.



Crl.O.P.No.24687 of 2023

Prayer in Crl.O.P.Sr.No.51069 of 2023: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to call for the Records in charge sheet in C.C.No.43 of 2015 pending on the file of the learned Judicial Magistrate No.I, Poonamallee and quash the same.

For Petitioners : Mr.P.Jesus Moris Ravi

For R1 : Mr. Leonard Arul Joseph Selvam
Government Advocate (Crl. Side)

For R2 : Mr.S.Sasikumar

COMMON ORDER

These two petitions have been filed by A3 and A5 in C.C.No.43 of 2015 on the file of the learned Judicial Magistrate No.I, Poonamallee.

2. The case of the prosecution is that, the defacto complainant by name M/s. Amman Try Sponge & Power (P) Ltd entered into a contract with A1 by name Prajaktha Sathe, proprietor of M/s.Ujway Enterprises for scrap weighing about 240 metric tonnes, which was imported from UK. When the cargo reached the Source of India, it was found that, the material supplied were substantially subtended. Therefore, in the presence of A5, who acted as a broker for the deal and A3, the manager of the 1st accused company, inventory was taken. The material with standard prescribed was delivered to



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the complainant and remaining scrap was retained by A1. The quantity standard prescribed was only 48 metric ton. For the difference, it appears that, A1 has issued cheque to the complainant but it was bounced and returned for “insufficient funds”. Attributing knowledge and intention against A3 and A5 also complaint was given and the same was taken on file after investigation by the learned Magistrate.

3. The learned counsel appearing for A3 & A5 submitted that they are no way connected with the alleged offences and they were only Manager and middle man respectively. They are not party to the contract entered between defacto complainant and A1 and they are not party to the subsequent settlement arrived by the defacto complainant and A1 in respect of short supply of scrap.

4. The learned counsel appearing for the defacto complainant submitted that, right from the inception importing the scrap, the agreement entered between the first accused and the complainant, admitting the short supply of goods and agreeing to pay the balance amount, these two petitioners were actively participated in the transaction and they have no



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knowledge and intention to cheat the defacto complainant. The statement of the witnesses and documents, particularly the agreement which was entered between the parties before supply and memorandum of understanding entered between the parties after part supply of goods, this Court finds that it is substantial case of civil dispute, however, when short supply of goods been accepted by A1 and given cheque for balance amount it has become the individual dispute between the defacto complainant and the first accused and no more an affair which involves A3 and A5. They cannot be mustered with criminal prosecution when there is no overt act on their part in the alleged cheating attributed as against A1.

5. In th light of the above facts, this Court is of the view that, it is a fit case to be quashed for want of material as against the petitioners. Thus, C.C.No.43 of 2015 on the file of the learned Judicial Magistrate No.I, Poonamallee is hereby quashed as against the petitioners. The trial Court shall proceed with the trial as against the other accused. Since, the matter is of the year 2015, trial Court shall complete the trial within a period of four months from the date of receipt of copy of the order



Crl.O.P.No.24687 of 2023

6. Accordingly, Criminal Original Petition in Crl.O.P.No.24687 of

2023 is allowed and Crl.O.P.Sr.No.51069 of 2023 is allowed at the S.R.

Stage itself. Consequently, connected miscellaneous petitions are closed.

28.11.2023

Index : Yes/No

Neutral Citation : Yes/No

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To

To:

1. Inspector of Police,
Central Crime Branch – II, EDF -II,
Egmore, Chennai – 600 008.
2. Judicial Magistrate No.I,
Poonamallee.
3. The Public Prosecutor,
Madras High Court.



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Dr.G.JAYACHANDRAN,J.

Sma

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and

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