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Crl.O.P.Nos. 6471 & 22160 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.Nos. 6471 & 22160 of 2022

and

Crl.M.P.Nos.3640, 14282 & 14284 of 2022

S.Sundar

... Petitioner in
Crl.O.P.No.6471/2022

S.Chockalingam

... Petitioner in
Crl.O.P.No.22160/2022

Versus

1. State rep. by
Deputy Superintendent of Police,
District Crime Branch, Salem.

2. V.Ravikumar

... Respondents in both
Crl.O.P.s

COMMON PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the complaint pending in C.C.No. 693 of 2021 on the file of the



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Judicial Magistrate cum Fast Track Judge-II, Erode and quash the same in so far as the petitioner is concerned as arbitrary, unsustainable in law and on facts.

For Petitioner
in both Crl.O.P.s : Mr.M.Arunachalam

For Respondents
in both Crl.O.P.s : Mr.S.Vinoth Kumar,
Govt. Advocate (Crl. Side) for R1

COMMON ORDER

These Criminal Original Petitions have been filed seeking to quash the charge sheet in C.C. No. 693 of 2021 on the file of Judicial Magistrate-VI, Salem.

2. Heard both sides.

3. The petitioners are ranked as A3 and A1 in the F.I.R. in Crime No.54 of 2005 registered for the offence under Sec.420,409 r/w 34 I.P.C. Subsequently, the charge sheet has been filed and the same was taken on file in C.C.No.693 of 2021 on the file of Judicial Magistrate-VI, Salem and the same is pending. Now, the petitioner had filed this petition



praying to quash the said charge sheet.

4. According to the prosecution, there is a company called Saravana Yarn Traders at Konganapuram, Edapady Taluk, wherein the petitioners are employees and during December 2001, A4, A6 and employees of A1 have visited the 2nd respondent/defacto complainant company and requested them to supply cotton to their mill for converting the same into yarn and promised to do business promptly and in honest manner. Accordingly, an oral agreement was arrived between A1, A2, A4 and A6. Thereafter, from 09.12.2001 to 21.02.2002 the 2nd respondent/defacto complainant delivered cotton worth about Rs.62,19,850/- to Sri Rajendra Mills and the same was acknowledged. But, they have subsequently failed to comply the terms of agreement, thereby committed breach of trust. So, there was a panchayat was held, in which they have entered into a Memorandum of Understanding on 31.01.2002 and at that time, all the accused A2 to A11 gave assurance to convert the remaining cotton lints into yarn, but they have failed to comply the memorandum of understanding also. Therefore, the complaint was lodged as they committed breach of trust and the final report was



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filed against the petitioners for an offence under Sec.120(b), 468, 471, 420, 109 and 409 I.P.C. Aggrieved over the same, A3 and A1, son and father respectively are before this court.

5. The learned counsel for petitioners would submit that the complaint was filed belatedly after 4 years of occurrence, but without considering the same, the final report was accepted by the trial judge as such is erroneous one. Furthermore, the transaction for supply of cotton and converting into yarn is purely a business transaction between two companies and it is a civil in nature. He would also submit that they have been falsely implicated in this case. In fact, there is no prima facie case is made out and the same is liable to be set aside. Accordingly, he prayed to quash the proceedings initiated against the petitioners.

6. Furthermore, the petitioner/A3 in Crl.O.P.No. 6471 of 2022 is concerned, he was aged about 22 years at the time of alleged occurrence happened in the year of 2002, but he was falsely implicated as if he was not involved in the company affairs. Since because he was a college going student during the year of 2002, but only to harass him, he was implicated in this case. Hence, the learned counsel prayed to quash the



proceedings as against the petitioner/A3.

7. By way of reply, the learned Government Advocate (Criminal side) appearing for 1st respondent would submit that from the year of 2002, nearly about 14 occasions, based upon the promise and assurance given by A1 and others, the cotton lints worth about Rs.62,19,850/- was delivered to them and nearly about 20 years, there was a business transaction between them. Since they have committed cheating by not complying terms and also committed breach of trust, the complaint was lodged and the final report was filed. Hence, he raised strong objections and prayed to dismiss this petition.

8. Considering both side submissions and on perusal of records, it reveals that the petitioner and the 2nd respondent/defacto complainant are yarn traders and based upon assurance given by A1 and other accused, the cotton was supplied, but they failed to return yarn as they have agreed and nearly about Rs.62 lakhs involved and the occurrence was happened in the year of 2002. But, so far, there is no progress in the trial. If at all, the petitioner/A3 in Crl.O.P.No.6471 of 2022 is a college student at the time of alleged occurrence of the year 2002, he is entitled to work out his



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remedy before the trial court. Therefore, I am not inclined to consider his request on seeing the gravity of offence. Furthermore, if at all, any defence available for the petitioner/A1 in Crl.O.P.No. 22160 of 2022, he can also very well raise all his defence before the trial court. Hence, I do not find any irregularity in the charge sheet initiated against both petitioners. Accordingly, these Criminal Original Petitions are dismissed. Consequently, connected Criminal Miscellaneous Petitions are closed.

12.03.2024

Index: Yes/No
Internet: Yes/No
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To

1. Deputy Superintendent of Police,
District Crime Branch, Salem.
2. The Public Prosecutor,
High Court, Madras.



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T.V.THAMILSELVI, J.

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