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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :02.07.2024

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THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

**Crl.OP.No.8293 of 2024
and
Crl.MP.Nos.6042 & 6044 of 2024**

1.M/s.Kamalam Agro Products
Rep by its Partner
Mr. Dhanvanth K.G.

2.Dhanvanth K.G.
3.Mayuri Udayakumar
4. Sathya Rajagopal

... Petitioners

Vs.

M/s.Marico Ltd.,
No.1056, 1st Floor,
Sunshine Buildings,
Avinashi Road,
Coimbatore-641018
Rep by its Authorized Signatory
Mr.Achuthan Kutty. K
Buying Manager

.... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records relating to CC.No.325 of 2023 on the file of the learned Judicial Magistrate, Kangayam and quash the same.

For Petitioners : Mr.M.Palanivel
For Respondents : Mr.S.Ravi



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for Mr.M.Kandasamy
ORDER

Petition filed to quash the private complaint instituted against these petitioners were arrayed as A6 to A9 in the compliant.

2. The short point involved in this case is that the petitioners who are the suppliers of the coconut without husk to one M/s. Srimadhi Agro Industries Pvt., Limited which is supposed to convert the coconut into copra and supply to the defacto complainant, will be sent to the defacto complainant Company which is the manufacturer of the coconut oil and other products. It is contended in the complaint that the first accused Company and the 6th accused Company are run by the same family members. They colluded together and make the complaint to believe that the coconut are ready for conversion and on the said promise, advance been received to the tune of Rs. 1,45,63,464/-. by the petitioners herein on the assurance given by the A1 to A4. However, there is no supply of copra as per the terms of the agreement.

3. According to the learned counsel for the petitioner, this complaint was first agitated before the police and the same was closed as



'mistake of fact' and therefore, the complaint has taken the private complaint Rule despite the fact that the dispute is civil in nature and no criminality involved in this case.

4. However, the learned counsel appearing for the defacto complaint /respondent would submit that the entire scheme of crime, as could be seen from the complaint, particularly, paragraph Nos.8, 9 and 10, the collusion between the 1st accused company and the 6th accused company clearly made out since the fact that the money received for supply of copra, there was no supply and therefore, 6th respondent and the person involved in the affairs of the 6th respondent by de-linking themselves with A1 Company after receiving cash promising to supply coconut without husk. Paragraph Nos.8 and 9 of the complaint reads as below which is more explicit.

“8. It is submitted since the supply chain of the complainant was getting adversely affected, Marico's official physically visited the premises of the 1st Accused Company on 29th October, 2021 to verify the stocks. It was during this visit that Marico's official suspected an issue. Subsequently, on 31st October 2021, the 1st Accused company submitted a falsified monthly stock



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declaration letter capturing the availability of stocks. Upon verification of documents and the records it was found that 4,79,890 kg of coconut without husk worth about INR 1,45,63,464/- (Rupees One Crore Forty Fivie Lakhs Sixty Three Thousand Four Hundred and Sixty Four only) was supplied by the 6th accused firm to the 1st Accused company for conversion into copra. Basis the representation and confirmation as regards receipt of coconuts as per the purchase order from the 1st Accused company, the complainant had released payments of INR 1,45,63,464/- (Rupees One Crore Forty Fivie Lakhs Sixty Three Thousand Four Hundred and Sixty Four only) to the 6th accused firm on various dates vide RTGS/NEFT.

9. It is submitted that while the complainant had released the payments to the 6th accused firm as stated above, the physical verification of stocks by Marico revealed that there were no stocks of coconut without husk present at the premises of the 1st Accused company. It was also evident that the Directors of 1st Accused company colluding with the partners of 6th Accused firm with malafide intention were furnishing false documentation and declaration for the stocks of coconut without husk lying in its premises. “



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5. In the light of the above discussion, this court finds that the complaint cannot be discarded as purely civil dispute between the supplier and the purchaser. The manner in which money received promise to supply the goods and failure to supply the goods does not indicate that it is simple breach of terms of contract but something more which attracts ingredients of Section 420 of IPC. Hence, the petition to quash is dismissed. If the accused persons seek for exemption from personal appearance, appropriate application before the trial court to be filed and if such application is filed, the same may be considered sympathetically and their personal appearance may be dispensed on all hearings when their appearance is not required. Consequently, connected miscellaneous petitions are closed.

02.07.2024

Index: Yes/No
Speaking / Non-Speaking order
gv

To

1. The Judicial Magistrate,
Kangayam.

4. The Public Prosecutor,



High Court of Madras,
Chennai.

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Dr.G.JAYACHANDRAN,J.

gv

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