



WEB COPY



Crl.O.P.No.25276 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.25276 of 2024

and

Crl.M.P.Nos.14098 & 14099 of 2024

1. Swethagunda
D/o.Madhusudhanan Rao

2. Abiraj Mukarji
S/o.Mukarji

... Petitioners

Vs.

1. The State rep. by
The Inspector of Police
E1 Mylapore Police Station
Mylapore, Chennai-600 004

2. D.Naresh
S/o.Dhayalan

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the entire records pertaining to C.C.No.882 of 2024 on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioners : Mr.B.Kumarasamy

For Respondents : Mr.S.Sugendran
Government Advocate (Crl.Side)
for R1
Mr.A.P.Sathyamurthy for R2



CrI.O.P.No.25276 of 2024

ORDER

WEB COPY This Criminal Original Petition is filed to quash the charge-sheet in C.C.No.882 of 2024 on the file of the XVIII Metropolitan Magistrate Court, Saidapet, Chennai.

2. Learned counsel for the petitioners submitted that the petitioners entered into a sales and purchase agreement with the second respondent/*de-facto* complainant for supply of medical and surgical goods. As per the agreement, the petitioners supplied surgical goods to the tune of Rs.45,00,000/- to the second respondent, for which, the petitioners also paid GST amount to the account of the second respondent. After receiving the goods, the second respondent informed the petitioners that he is not able to sell the products and requested them to take back the same and returned the amount. Since the petitioners have not yielded to the request of the second respondent, the second respondent started coercing the petitioners one way or other. Further, on 27.01.2021, the petitioners sent legal notice to the second respondent and stating that if the second respondent remits the balance consideration, the petitioners are ready and willing to supply the goods. After receiving the said notice, the second respondent preferred a false and frivolous



CrI.O.P.No.25276 of 2024

complaint against the petitioners. The entire dispute between the petitioners and the second respondent pertains to contractual obligations, which is purely civil in nature, but the second respondent has given a criminal colour and filed a false complaint against the petitioners. The first respondent-Police without conducting fair and proper investigation filed a final report against the petitioners for the alleged offences under Sections 406, 420, 465, 468 and 506(ii) IPC. He further submitted that as per the purchase order, already consignment was delivered and the second respondent also received the consignment and the same was reflected in the GST account. Therefore, the petitioners prayed for quashing of the FIR.

3. Learned counsel for the second respondent/*de-facto* complainant submitted that no consignment was delivered and the second respondent has not received any goods. Based on the forged documents, the petitioners made false allegations against the second respondent.

4. Learned Additional Public Prosecutor appearing for the first respondent/Police submitted that *prima facie* there are sufficient materials to proceed with the case against the petitioners, witnesses who gave



CrI.O.P.No.25276 of 2024

statements under Section 161(3) Cr.P.C have also clearly spoken about the involvement of the petitioners and therefore, the grounds taken by the petitioners are matter for trial.

5. Heard both sides and perused the materials available on record.

6. Admittedly, based on the complaint given by the second respondent herein, the first respondent/Police registered a case in Crime No.257 of 2021 against the petitioners for the alleged offences under Sections 294(b), 420, 465, 468 and 506(ii) IPC. On completion of investigation, the respondent-Police laid a charge-sheet before the learned XVIII Metropolitan Magistrate, Saidapet, Chennai against the petitioners for offences under Sections 406, 420, 465, 468 and 506(ii) IPC. Challenging the same, the present petition is filed by the petitioners.

7. This Court, on perusal of Section 161 Cr.P.C., statements and other materials, is of the view that *prima facie* there are allegations made against the petitioners and it is a matter for trial and all the points raised by the petitioners herein have to be agitated before the trial Court. Hence, this Criminal Original Petition is dismissed. However, the petitioners are



CrI.O.P.No.25276 of 2024

at liberty to take all their defences before the trial Court during trial in

C.C.No.882 of 2024. Consequently connected miscellaneous petitions are closed.

11.12.2024

Index : Yes/No

Neutral Citation Case : Yes/No

Speaking Order : Yes/No

ms

To

1. The XVIII Metropolitan Magistrate,
Saidapet, Chennai.
2. The Inspector of Police
E1 Mylapore Police Station
Mylapore, Chennai-600 004
3. The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.O.P.No.25276 of 2024

P.VELMURUGAN, J

ms

Crl.O.P.No.25276 of 2024
and
Crl.M.P.Nos.14098 & 14099 of 2024

11.12.2024