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CrI.O.P.(MD) No.1381 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 06.03.2024

PRONOUNCED ON : 20.03.2024

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.1381 of 2024

and

CrI.M.P.(MD)Nos.952 and 953 of 2024

Samsen Papli

...Petitioner

vs

**1.The State represented by
The Inspector of Police,
Central Crime Branch,
Madurai City.**

2.Dr.Sivagurunathan

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying, to call for the records in C.C.No.95 of 2015 on the file of the Judicial Magistrate No.I, Madurai, pending disposal of the above Criminal Original Petition before this Court and to quash the same,

For Petitioner	: Mr.K.Neelamegam
For R1	: Mr.B.Thanga Aravindh
	Government Advocate (CrI.side)
For R2	:Mr.S.Krishnan



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ORDER

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The Criminal Original Petition had been filed seeking to quash the charge sheet in C.C.No.95 of 2015 on the file of the learned Judicial Magistrate No.I, Madurai.

2.The learned Counsel appearing for the Petitioner submitted that the second Respondent herein preferred a complaint against the Petitioner and others. Originally, there was business contract between the Petitioner and the son of the *de-facto* Complainant for supply of medicines. Subsequently, supply was stopped, since there was outstanding. After 8 years of termination of contract, the second Respondent/*de-facto* Complainant had preferred the complaint. He further submitted that there is no contract between the *de-facto* complainant and the Petitioner herein and only the son of *de-facto* complainant is party to the contract. Therefore, he seeks to quash the final report laid by the first Respondent in C.C.No.95 of 2015 pending on the file of the learned Judicial Magistrate No.I, Madurai.

3.The learned Government Advocate (crl.side) appearing for the first Respondent vehemently objected to the submission of the learned Counsel



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appearing for the Petitioner by stating that FIR was registered in the year 2013 and final report was laid in the year 2015. He further invited the attention of the Court to the final report laid by the first Respondent, wherein, it is stated that the Petitioner and others had mis-represented regarding the Company, namely, M/s.Franch Herbs Technologies Limited and had cheated the *de-facto* Complainant for supplying of medicines and subsequently wound up the Company and thereby, caused loss to the *de-facto* Complainant. On investigation by the Investigation Officer, it was found that the Company mentioned by the Petitioner and other accused was not at all registered with the Registrar of the Companies. Only with an intention to cheat the people, the Petitioner made such false representation and swindled money, thereby, attracting offences under Sections 406 and 420 IPC.

4.The learned Counsel for the second Respondent objected to the submission of the learned Counsel for the Petitioner stating that the second Respondent is the witness to the contract entered into between the de-facto Complainant's son and the Petitioner and that he has every right to prosecute on behalf of his. He further submitted that the Petitioner had filed this



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Petition only to drag on the proceedings and that he seeks dismissal of this
Petition.

5.Considering the rival submissions, it is found that the *de-facto* Complainant had not entered into a contract with the Petitioner herein. The *de-facto* Complainant is not a party to the contract. Under those circumstances, after eight years of the contract, the complainant claiming that he was cheated cannot be accepted. After eight years of termination of contract, the *de-facto* Complainant had preferred the complaint. Therefore, the ingredients of offence under Sections 406 and 420 of IPC are not attracted. A civil dispute is attempted to be converted into a criminal case.

In the result, the **Criminal Original Petition** is allowed. The charge sheet in C.C.No.95 of 2015 pending on the file of the Judicial Magistrate No.I, Madurai, is quashed. Consequently, connected Miscellaneous Petitions are closed.

Internet :Yes/No
Index :Yes/No
NCC :Yes/No

20.03.2024



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To

1.The Judicial Magistrate No.I, Madurai.

2.The Inspector of Police,
Central Crime Branch,
Madurai City.



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SATHI KUMAR SUKUMARA KURUP, J.

cmr

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