



Crl.O.P.(MD) No.13259 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2024

CORAM

THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.13259 of 2021

and

Crl.M.P.(MD) No.6837 of 2021

Prashanth Rathee
Urban Orchards Pvt. Ltd.,
Suite No.508/509,
JMD Megapolis Sohna Road,
Sector 48, Gurugram 122 002.

... Petitioner

Vs.

1.State of Tamilnadu rep. by
The Assistant Commissioner of Police,
Central Crime Branch,
Trichy City.

2.State of Tamilnadu rep. by
The Inspector of Police,
Central Crime Branch,
Trichy City.

3.Kuberaa Global Impex,
Rep. by its Proprietor
R.Niranjana Kumar,
21, Thanjavur Main Road,
Old Milk Depot.,
APS Compound, Trichy.

... Respondents



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Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to call for the records in Crime No.10 of 2020 on the file of the second respondent and quash the same in so far as the petitioner concern.

For Petitioner : Mr.M.V.Venkatashesan
For R1 & R2 : Mr.R.M.Anbunithi
Additional Public Prosecutor
For R3 : Mr.K.Suresh

ORDER

The present Criminal Original Petition is filed seeking to quash the First Information Report [F.I.R.] in Crime No.10 of 2020 on the file of the second respondent - Sub Inspector of Police, Central Crime Branch, Trichy City.

2. The petitioner is the Accused No.1 [hereinafter referred to as 'first accused' for the sake of convenience] in Crime No.10 of 2020 on the file of the Central Crime Branch, Trichy City.

3. The brief facts of the case of the third respondent [hereinafter referred to as '*de facto* complainant' for the sake of convenience] reads as under:



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(a) The *de facto* complainant is the proprietor of M/s.Kuberaa Global Impex and is engaged in the business of trading rice and other products. He got an order from M/s.Sreeman Traders of Andra Pradesh for supply of 720 Metric tons of 5% broken rice to Venezuela during May, 2020. Michael Raju who is the third accused in Crime No.10 of 2020 introduced the first accused to the *de facto* complainant. The first accused gave an assurance to the *de facto* complainant that he would supply 720 Metric tons of 5% broken rice within a reasonable time and also received 20% of invoice amount i.e., Rs.47,50,000/- as advance through RTGS transfer from the *de facto* complainant. Though the first accused informed the *de facto* complainant that the process of packing rice was going on, he did not give him any details in this regard. However, during August, 2020, the first accused insisted the *de facto* complainant to pay the remaining 80% of the invoice amount. The *de facto* complainant requested the first accused to produce the details of loading. Therefore, the first accused sent a Draft Bill of Lading dated 10.08.2020 to the *de facto* complainant. Upon receipt of the said Draft Bill of Lading, the *de facto* complainant paid a sum of Rs. 75,00,000/- on 20.08.2020, Rs.15,00,000/- on 28.08.2020 and Rs.64,08,039/- on 05.09.2020 to the first accused.



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Thus, the *de facto* complainant had made total payment of Rs.2,01,58,039/- to the first accused.

(b) Subsequently, the *de facto* complainant came to know about the forged documents created by the first accused through one Mr.Navjodh Singh Sahota. The *de facto* complainant therefore lodged a complaint with the second respondent - Inspector of Police, Central Crime Branch, Trichy and FIR in Crime No.10 of 2020 was registered. The said FIR was later transferred to the Serious Crime Cell, Trichy City.

(c) The first accused filed an Anticipatory Bail Petition before this Court and same was dismissed. He thereafter filed S.L.P. before the Hon'ble Supreme Court which was also dismissed. Subsequently, the first accused filed the present Criminal Original Petition to quash the FIR on the following grounds:

- i. The first accused had incurred heavy loss due to the cancellation of shipment.
- ii. The *de facto* complainant could have filed a Civil Suit for recovery of money and he had falsely implicated him in the criminal complaint.



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iii. The dispute between the parties is purely commercial in nature which can be decided only by a competent Civil Court.

iv. Since all the transactions took place in Delhi, the Central Crime Branch, Tiruchirappalli does not have jurisdiction to entertain the complaint lodged by the *de facto* complainant.

4. The learned counsel appearing for the petitioner/first accused reiterated the contentions mentioned in the affidavit and submitted that the entire FIR should be quashed.

5. Per contra, Mr.K.Suresh, the learned counsel for the second respondent/*de facto* complainant contended that the present petitioner/first accused filed Anticipatory Bail Petition in Crl.O.P.(MD) No.16132 of 2020 on the very same grounds raised in the present Criminal Original Petition and same was not accepted by this Court *vide* its orders dated 12.03.2021 and the appeal in S.L.P. (Crl.) No.3683 of 2021 by the petitioner/first accused was also dismissed by the Hon'ble Supreme Court



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on 21.05.2021 with a specific finding that there is no ground for grant of Anticipatory Bail to the petitioner/first accused. Moreover, the Hon'ble Supreme Court directed the petitioner/first accused to approach the Trial Court for grant of Bail.

6. He further submitted that despite the same, the petitioner/first accused neither appeared before the police nor surrendered before the concerned Magistrate Court and therefore, FIR in Crime No.10 of 2020 is kept pending without any progress. It is his contention that though a specific direction was given by this Court in Crl.O.P.(MD) No.14430 of 2022 to the police officials that they shall complete the investigation within a period of two months, the investigation is not completed till date. The specific contention of the learned counsel for the second respondent/*de facto* complainant is that there is no reason to quash the FIR at this stage and the petitioner/first accused who had received a sum of Rs.2,01,58,039/- by cheating the second respondent/*de facto* complainant and also created fraudulent documents, cannot be permitted to say that the matter in dispute is purely civil in nature. His further contention is that the second respondent/*de facto* complainant came to know from one Mr.Navjodh Singh Sahota that the petitioner/first accused



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had actually placed orders for 100% broken rice, whereas, the second respondent/*de facto* complainant had placed orders for 5% broken rice. He therefore prayed for dismissal of the present Criminal Original Petition.

7. The learned Additional Public Prosecutor appearing for the first and second respondents in his Status Report contended that the police officials are in the process of verifying the documents and that they are unable to arrest the petitioner/first accused as he is periodically changing his residence. His location at present is Delhi and once the investigating officer gets permission from his Superior Officers, he would proceed to Delhi to arrest him, complete the investigation and file a final report.

8. It is seen from the records that the petitioner/first accused had promised to supply 720 Metric tons of 5% broken rice to the *de facto* complainant and also received a sum of Rs.2,01,58,039/- from him on various dates. However, he did not keep up his promise and in fact, he had informed the *de facto* complainant that he had sent the goods through a transport service at Bihar and had sent fabricated waybills, bills of lading and lorry receipts. Moreover, the petitioner/first accused had placed orders with M/s.Narv Agro Foods, Haryana for purchase of 100%



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broken rice, whereas, the *de facto* complainant wanted supply of 720 Metric tons of 5% broken rice. Only after this was informed by Mr.Navjodh Singh Sahota, the proprietor of M/s.Narv Agro Foods, Haryana, the *de facto* complainant realised the fraud committed by the petitioner/first accused and therefore, the *de facto* complainant lodged a complaint with the second respondent - Inspector of Police, Central Crime Branch, Trichy. Since all the payments were made by the second respondent/*de facto* complainant from Trichy, Central Crime Branch, Trichy has jurisdiction to entertain the petition. When the petitioner/first accused had committed a serious fraud, he cannot say that the second respondent/*de facto* complainant can only file a Civil Suit for recovery of money.

9. It is also settled law that the criminal proceedings ought not to be scuttled at the initial stage and quashing of complaint/FIR should be an exception rather than an ordinary rule. In the instant case, there are cognizable offences made out against the present accused and he is not also appearing before the second respondent police. In the circumstances, I do not find any reason to quash the FIR.



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10. Accordingly, this Criminal Original Petition is dismissed.

Consequently, connected Miscellaneous Petition is closed.

05.01.2024

Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order

JEN

To

1.The Assistant Commissioner of Police,
Central Crime Branch,
Trichy City.

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

3.The official-in-charge,
Serious Crime Cell,
Trichy City.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.HEMALATHA, J.

JEN

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