



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD).No.22688 of 2023
and CrI.OP(MD).No.14956 of 2023

and

WMP(MD).Nos.18948 and 18949 of 2023 and
CRL MP(MD). No.11838 of 2023

W.P.(MD).No.22688 of 2023

Sreekanth Reddy

... Petitioner

Vs.

1. The State represented by
The Deputy Superintendent of Police,
District Crime Branch,
Karur District,
Tamil Nadu.

2.Balasubramani

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records on the file of the 1st respondent in the impugned FIR No.13 of 2023 dated 14.04.2023 and quash the same.



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For Petitioner : Mr.G.Vijayanand
For R1 : Mr.A.Albert James,
Government Advocate
(Criminal Side)
For R2 : Mr.S.Sureshkumar

Crl.OP(MD).No.14956 of 2023

Dhanjay Vasant Dake ... Petitioner /Accused No.4

Vs.

1.The State represented by
The Inspector of Police,
District Crime Branch,
Karur District.
(Crime No.13 of 2023) ...1st respondent / Complainant

2.Balu Subramani ...2nd respondent / Defacto
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records of the FIR dated 14.04.2023 in Crime No.13 of 2023 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.G.Vijayanand
For R1 : Mr.A.Albert James,
Government Advocate
(Criminal Side)
For R2 : Mr.S.Sureshkumar

**COMMON ORDER**

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These petitions have been filed by A2 and A4 seeking to quash the FIR registered in Crime No.13 of 2023 pending investigation on the file of the 1st respondent.

2. The 2nd respondent, who is the Director of a company, called as ABC Construction, gave a complaint stating that the company is involved in the supply of man power for construction work. A contract work to supply man power for construction of airport at Andaman by the petitioners' principal – SPCL company, was granted in favour of the 2nd respondent. The accused persons are said to have committed default to the tune of Rs.57 lakhs and as a result, the workmen, who were deployed by the 2nd respondent, were stranded at Andaman without any salary. The contract was only between the 2nd respondent and the petitioner and the 2nd respondent did not have any direct contract with SPCL. In view of the attitude of the accused persons, the 2nd respondent company was put to hardship and nearly 93 persons were not even in a position to get their food and accommodation at Andaman. After various communications,



the accused persons paid only a sum of Rs.13 lakhs on 02.06.2020 and a further sum of Rs.2.5 lakhs on 23.06.2020. After making this part payment, the accused persons promised that the remaining amount will also be settled. However, they failed to pay and as a result, the 2nd respondent had to shell out huge amount of money towards GST. Accordingly, a total sum of Rs.58,11,362/- became due and payable and there was absolutely no response from the accused persons and hence, the complaint came to be filed before the respondent police. Based on the same, an FIR came to be registered in Crime No.13 of 2023 for offence under Section 120(b), 406 and 420 of IPC.

3. When the matter came up for hearing on 21.09.2023, this Court passed the following order:-

“This Writ Petition is filed under Article 226 of the Constitution of India seeking quashment of the FIR in Crime No.13 of 2023 dated 14.04.2023 on the file of the respondent No.1 police.

2. .It is submitted by the learned counsel for the petitioner that the petitioner company was the main contractor for construction of the airport in Port Blair. It has sub-contracted part of the work in favour of one CCPL,



Pune, which, in turn, engaged the service of respondent No. 2/ABC for executing certain works. It is submitted that as and when the invoices were raised by the respondent No.2, the CCPL would certify and forward them to the petitioner company and the petitioner company used to honour them. During the course of said transactions, the petitioner company has paid more than Rs.2 Crores to the respondent No.2.

3. .It is submitted that the defacto complainant has filed a complaint before the respondent police, as if the petitioner has committed default of Rs.57 lakhs and thereby committed offences alleged against the petitioner company. If at all the defacto complainant has got any grievance against CCPL, it should have settled the issue with CCPL instead filed a complaint before the respondent police. It is submitted further that the petitioner is not having contractual obligations to pay directly to the respondent No. 2 and that even if there are any issues in respect of settlement of accounts and payment of money, the defacto complainant should have filed a suit for recovery of money as the dispute between the parties is a commercial transactions.

4. .The learned counsel for the petitioner has



submitted further that the notice to this Court that on filing of a complaint, the respondent police without making any preliminary enquiry without giving any notice to the petitioner under 41A have arrested the petitioner in the midnight on 31.07.2023 and he has filed CCTV footages to that extend. It is further submitted further that the respondent No.1 police are biased under the influence of the respondent No.2 and therefore sought for quashment of FIR.

5. Mr.SS.Madhavan, learned Government Advocate (Crl.side), who has taken notice for the respondent No.1 police, submits that in the same crime, one of the accused has filed Crl.O.P.(MD) No.14956 of 2023 and the same is posted to 03.10.2023. Issue notice to the respondent No.2. Private notice is also permitted. List on 03.10.2023. In the meantime, the respondent police are directed to proceed with the investigation and directed not to file the charge sheet until further orders.”

4. Heard the learned counsel on either side and perused the materials placed on record.



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5. In the considered view of this Court, the actual dispute between the parties is purely civil in nature and it has been given a criminal colour. Some amount of money is due and payable to the 2nd respondent and instead of filing a suit or initiating proceedings for recovery of this amount, the 2nd respondent thought it fit to approach the police and recover the amount. In fact, after the registration of the FIR, the police went ahead and arrested A2 and he was brought to Karur. In the FIR, it is seen that the complaint was given on 06.12.2022 and the FIR was registered on 14.04.2023. After registering the FIR with such a delay, the respondent police thought it fit to resort to arrest even without issuing a summon under Section 41 A of CrPC in a case where it is a business transaction between the parties.

6. The 2nd respondent probably had faced undue hardship due to the non-payment of the amount. That does not mean that the recovery of the amount can be made through the police. The 2nd respondent should have worked out the remedy in the manner known to law by seeking for recovery of money. The continuation of the criminal case as against the accused persons will only result in abuse of process of law which



requires the interference of this Court.

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7. In the result, the FIR in Crime No.13 of 2023 pending investigation on the file of the 1st respondent is hereby quashed and the writ petition and the criminal original petition stands allowed. It goes without saying that the present order will not stand in the way of the 2nd respondent from working out his remedy for recovery of the amount before the appropriate forum.

8. Accordingly, these petitions are allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

05.12.2024

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

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1. The Deputy Superintendent of Police,
District Crime Branch,
Karur District,
Tamil Nadu.
2. The Inspector of Police,
District Crime Branch,
Karur District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH.J.,

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W.P.(MD).No.22688 of 2023
and Crl.OP(MD).No.14956 of 2023

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