



Crl.O.P.No.6850 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

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and Crl.M.P.No.4352 of 2025

1. Srikals Graphics Pvt.Ltd.,
Rep. By Its Managing Director And Authorised Signatory,
S.Kalyanasundaram
 2. S.Kalyanasundaram
 3. Ramyashrii Sridharan
 4. Balaji Sundaram Kalyana
- ... Petitioners

Vs

1. The State By,
The Inspector of Police,
CCB-I, CCB Chennai,
Greater Chennai Police,
(Crime No.7 of 2024)
 2. Ravi Kapoor
- ... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C/ Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records, FIR in Cr.No.7 of 2024 on the file of CCC-I Police Station, and quash the same.

For Petitioners	: Mr.D.Selvam for Mr.S.Praveennath
For R1	: Mr.A.Gopinath Government Advocate (Crl.side)
For R2	: Mr.R.Raghul for Mr.C.Iyyaparaj



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ORDER

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This Criminal Original Petition has been filed to quash the FIR in Cr.No.7 of 2024 on the file of the Respondent Police.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The case of the prosecution is that the first petitioner had approached the second respondent and expressed their interest to purchase the offset machinery and auxiliary parts for the purpose of printing, for the total sale consideration of Rs.59,00,000/-. Initially, the first petitioner had paid a sum of Rs.50,00,000/- and thereafter, failed to pay the balance amount, thereby cheating the defacto complainant. Hence, the complaint.

4. On receipt of the complaint, the respondent registered FIR in Crime No.7 of 2024 for the offences punishable under Sections 406, 420 and 120B of IPC.

5. It is seen that the first petitioner had entered into an agreement to



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purchase the printing machinery and auxiliary parts from the second respondent

for a total sale consideration of Rs.59,00,000/-. According to the petitioners, there is an outstanding sale consideration to the tune of Rs.50,00,000/-. Therefore, a Memorandum of Understanding dated 22.07.2019 was entered between the petitioners and the second respondent. An Invoice No.001/19-20 dated 22.06.2019 was raised upon by the second respondent and on perusal of the same revealed that “One used 5 colour Mistsubishi IF+TC+ED offset printing machine with standard accessories in “as is where is condition”. Upon delivery of the machinery, the petitioner entered into Memorandum of Understanding and the sale consideration was to be paid by the petitioner by monthly installments, within a period of two years from the date of Memorandum of Understanding. Accordingly, the petitioner had so far paid a sum of Rs.15,00,000/- and thereafter, they failed to pay.

6. Therefore, it is completely a commercial transaction and even according to the second respondent, part of the amount has been paid. Thereafter, the petitioners failed to pay the amount due to various reasons. As per the Memorandum of Understanding, there is an arbitration clause and the second respondent filed an application in Arb.O.P.(Com.Div).No.247 of 2024 before this Court and it is pending for appointment of Arbitrator. Therefore, no



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offence is made out as against the petitioners under Sections 406, 420 and 120B of IPC.

7. The learned counsel for the second respondent would submit that the petitioner, after payment of part of the amount, failed to pay the remaining amount. Thereafter, the printing machinery was also mortgaged by the petitioner, thereby cheating the second respondent.

8. It is well settled that in order to bring the charge for the offence under Section 420 of IPC:

(i) the accused must fraudulently or dishonestly made some false compromise.

(ii) the defacto complainant must act on the strength of such false representation or compromise.

9. In the case on hand, the petitioners neither made any dishonest nor any fraudulent representation to the second respondent. Therefore, the offence under Section 420 of IPC is not at all made out as against the petitioners.

10. Perusal of the entire allegations made in the FIR reveals that even

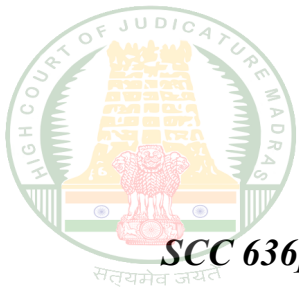


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according to the second respondent, the entire allegations are related to money transactions between them. Therefore, the criminal prosecution is used as an instrument to harass the petitioners and as such, the present FIR has been registered with an ulterior motive and it cannot be sustained as against the petitioners.

11. It is relevant to rely upon the judgment made by the Honourable Supreme Court of India in the case of *M/s. Indian Oil Corporation Vs. NEPC India Limited and others [(2006) 6 SCC 736]*, held that the civil liability cannot be converted into criminal liability and it is necessary to take notice of a growing tendency in business circle to convert purely civil dispute in criminal case. This is obviously on account of prevalent impression that civil law remedies are time consuming and do not adequately protect the interest of lender/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable breakdown of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claim which do not involve any criminal offence by applying pressure through criminal prosecution should be deprecated and dishonoured.

12. In the case of *G.Sagar Suri Vs. State of Uttar Pradesh [2000 (2)]*



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SCC 636], the Honourable Supreme Court of India held as follows:-

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“It is to be seen if a matter, which is essentially of civil nature, has been given a cloak of criminal offence, criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal Court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this Section has to be exercised to prevent abuse of the process of any Court or otherwise to secure the ends of justice.”

13. In view of the above, the impugned FIR cannot be sustained and is liable to be quashed. Accordingly, the FIR in Cr.No.7 of 2024 pending on the file of the first respondent is hereby quashed.

14. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous petition is closed.

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Internet: Yes
Index: Yes/No
Speaking/Non speaking order
mn



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To

1. The Inspector of Police,
CCB-I, CCB Chennai,
Greater Chennai Police,
2. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN. J.

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