

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.06.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP.No.11478 of 2015

Nilkamal Limited
A Limited Company incorporated
under the Companies Act,
having its Registered Office and
factory at Survey No.354/2 and 354/3,
Rakholi - Dapada Road, Village
Vasona and also at Kharadpada,
Union Territory of Dadar and Nagar Haveli
through its constituted Attorney
shri Satish Jivandas Ved ... Petitioner

Vs

1. M/s. Tribune Textile(India) Pvt.Ltd.,
No.248/2, Sanaputhur road,
Alipikulam, Manellore Post,
Gummidipoondi Taluka,
Thiruvallur 601 202,
Tamil Nadu State.
2. G.Surendra Gupta,
Managing Director of
M/s. Tribune Textile (India) Pvt. Ltd.,
24, III Floor, Gautham Centre, 1055,
Avinashi Road, Coimbatore 641 018.
Tamil nadu State.
3. Kondapalli Subrahmanyam,
Chairman of
M/s. Tribune Textile (India)Pvt.Ltd.,
11-197, Brahmin street, Santhapet,
Nellore, Andhra Pradesh State.
4. P.Baskara Gupta,
Director of
M/s. Tribune Textile (India)Pvt.Ltd.,
105, T.P.Koil street, Triplicane,
Chennai - 5, Tamiladu State.
5. K.L.Shanmugappa,
Director of
M/s. Tribune Textile (India)Pvt.Ltd.,
522, III Floor, Prabhat Complex,
Gnadhi Nagar, K.G.Road,
Bangalore-560 009, KarnatakaState ...

Respondents

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to set aside the docket order dated 06.04.2015 and consequently direct the Learned Metropolitan Magistrate, Fast Track Court, Egmore, to take the above complaint in SCC.No.100/2009 returned by the learned Chief Judicial magistrate at Dadra and Nagar Haveli at Silvassa on file without insisting the previous adjudication and proceed with in accordance with law.

For Petitioner : B.Manoharan

ORDER

The petitioner seeks a direction to set aside the docket order dated 06.04.2015 and consequently direct the Learned Metropolitan Magistrate, Fast Track Court, Egmore, to take the above complaint in SCC.No.100/2009 returned by the learned Chief Judicial magistrate at Dadra and Nagar Haveli at Silvassa on file without insisting the previous adjudication and proceed with in accordance with law.

2. Heard the learned counsel for the petitioner and perused the material placed on record.

3. On 30.04.2015, this Court passed the following order:

"It appears that the complaint, which was filed under section 138 of the Negotiable Instruments Act, was pending on the file of the learned Chief Judicial Magistrate, Dadra and Nagar Haveli at Silvassa and the same was returned to the complainant pursuant to the judgment of the Hon'ble Supreme Court in the case of Dashrath Rupsingh Rathod vs. State of Maharashtra & another in Criminal Appeal No.2287 of 2009. The said complaint was returned to the complainant by the said court on 25.02.2015 with a direction that he should represent the same before the jurisdictional Magistrate within 30 days. The complainant represented the complaint before the learned Judicial Magistrate, Fast Track Court No.I, Egmore, Chennai. The learned Judicial Magistrate, Fast Track Court No.I, Egmore, Chennai, has returned it to the complainant on 06.04.2015 asking the complainant to produce the previous adjudication order from the learned Chief Judicial Magistrate, Dadra and Nagar Haveli, Silvassa.

2. The petitioner is directed to file an affidavit giving the reasons and explain to this court the steps taken by him in getting the previous adjudication from the said court.

Post this matter on 04.06.2015 under the caption "for orders".

4. Today, two affidavits have been filed on behalf of the complainant. One by Mr. Satish Jivandas Ved and the other by Mr. T.S. Subramanian. Mr. Satish Jivandas Ved is the authorized

person to represent the complainant company, when the case was pending on the file of the Chief Judicial Magistrate at Dadra and Nagar Haveli, Silvassa. In para 3 of the affidavit it is stated as follows:

" I state that the learned Chief Judicial Magistrate at Dadra and Nagar Haveli at Silvassa returned the complaint with all available records, which was forwarded to the Chennai Branch of Petitioner Company and Mr. T.S.Subramanian was substituted to authorise and represent the petitioner company. I was informed by Mr. T.S.Subramanian that on 25-March-2015 he appeared before the Metropolitan Magistrate, Fast Track Court, Egmore and presented the complaint as directed by the learned Chief Judicial magistrate at Dadra and Nagar Haveli at Silvassa in pursuance to the Hon'ble Supreme Court Judgment in Dashrath Rupsingh Rathod Vs. State of Maharashtra and others. The learned magistrate returned the case papers on oral instruction to file with the adjudications of the previous court. Mr. T.S.Subramanian approached me and we immediately approached the learned Chief Judicial Magistrate at Dadra and Nagar Haveli at Silvassa. I was orally informed by the learned chief Judicial Magistrate at Dadra and Nagar Haveli at Silvassa that all the available records were returned and no records were available with them in respect of the above SCC No.100/2009. I informed the same to Mr.T.S.Subramanian."

Mr. T.S.Subramanian who is now representing the complainant company, in his affidavit in para 3 has stated as follows:

" I state that the learned Chief Judicial Magistrate at Dadra and Nagar Haveli at Silvassa returned the complaint with all available records, which was forwarded to the Chennai Branch of Petitioner Company and I was substituted to authorise and represent the petitioner company. I appeared before the Metropolitan Magistrate, Fast Track Court, Egmore and presented the complaint on 25-March-2015 as directed by the learned Chief Judicial Magistrate at Dadra and Nagar Haveli at Silvassa in pursuance to the Hon'ble Supreme Court Judgment in Dashrath Rupsingh Rathod Vs. State of Maharashtra and others. The learned Metropolitan Magistrate, Fast Track Court, Egmore returned the case papers on oral instruction to file with the adjudications of the previous court. Immediately I approached the learned Chief Judicial Magistrate at Dadra and Nagar Haveli at Silvassa, along with the earlier authorised representative Mr. Satish Jivandas Ved. I was orally informed that all the available records were returned and no records were available with them in respect of the above SCC No.100/2009."

5. The learned Metropolitan Magistrate, Fast Track Court No.I, Egmore, Chennai has returned the complaint for want of docket orders and adjudication orders from the court of the Chief Judicial Magistrate, Dadra and Nagar Haveli, Silvassa. The objection raised by the learned Metropolitan Magistrate, Egmore is valid, in as much as, those docket adjudications are required to find out when cognizance was taken and whether the accused had appeared before the said Court.

6. It is seen from the records that learned Chief Judicial Magistrate, Silvassa has taken cognizance on 07.05.2009 and issued process to the accused as could be seen from the adjudication on the complaint itself. Except, this adjudication of cognizance, other adjudications are not available. Under such peculiar circumstances, the complainant cannot be made to suffer. Procedure is a hand made of justice. Therefore, this court directs the learned Metropolitan Magistrate, Fast Track Court, Egmore, Chennai to take the complaint on file and issue process to the accused, without insisting upon the adjudication and docket orders of the previous Court.

7. With the above direction, this petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1.The Metropolitan Magistrate, FTC, Egmore, Chennai.

2.do through 'The Chief Metropolitan magistrate,
Egmore, chennai.

3.The Chief Judicial Magistrate,
Dadra & Nagar Heweli at Silvara.

Ksj (co)
krd 12/6

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