

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-07-2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 674 of 2015

and M.P.No.1 of 2015

M/s.Ruth Enterprises
By its Proprietor
P.Mohan
S/o.S.Ponnaiah Nadar
No.9, First Floor
Kakkan Street
West Tambaram
Chennai-600 045.

...Petitioner/Accused

Versus

M/s.Myoungh Shin India Automotive Pvt.Ltd.
Having registered office and factory
premises at No.496/2
Mannur Village and Post
Sriperumbudur Taluk
Kancheepuram District
Rep. by its Authorized Officer
R.Thangarethinam.

... Respondent/Complainant

Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. against the order dated 25.03.2015 passed in C.M.P. No. 190 of 2015 in C.C.No.85 of 2014 on the file of the District Munsif-cum-Judicial Magistrate, Sriperumbudur.

For Petitioner : Mr.S.Sundar

ORDER

The petitioner has filed the above Criminal Revision Case challenging the order dated 25.03.2015 passed in C.M.P. No. 190 of 2015 in C.C.No.85 of 2014 on the file of the District Munsif-cum-Judicial Magistrate, Sriperumbudur.

2. According to the complainant, in the course of the business transaction, on two different dates, the accused has taken scrap materials for the total value of Rs.31,77,017.50 from the complainant's Company. The accused approached the complainant and undertook to pay the said sum on or before 30.03.2013 and also executed a Letter of Undertaking in favour of the complainant. As

per the Letter of Undertaking, the accused has approached the complainant and handed over a cheque dated 31.03.2013 for the said sum towards the discharge of the liability. When the cheque was presented for collection, it returned dishonoured for want of sufficient funds. The complainant issued a legal notice on 18.04.2013, for which, the accused has sent a reply making untenable allegations and hence, the complaint. The complaint was taken on file in C.C.No.85 of 2014 on the file of the District Munsif-cum-Judicial Magistrate, Sriperumbudur. While so, the complainant's company represented by its Authorised Officer, who is the Security Officer of the complainant Company, filed a petition in C.M.P.No.190 of 2015 to permit the petitioner to examine the Senior Officer Finance Department of complainant's Company and Assistant Manager/Production Management, Department of complainant's Company, to prove their case. The said petition was allowed by order dated 25.03.2015. Aggrieved against the same, this Criminal Revision Case is filed by the accused.

3. Mr.S.Sundar, learned counsel appearing for the petitioner/accused would submit that the complainant's Company is represented by its Authorised Officer, who is the Security Officer of the complainant's Company and he has no locus standi to file the petition. He would further contend that all the documents were earlier available with him, but, he has not produced at the earlier point of time and he has produced the same belatedly, it is only a delaying tactics to fill up the lacuna. He would further add that while issuing a Letter of Authorisation, it is the duty of the company to pass a resolution, but, the resolution was passed only later on and hence, the allowing of the petition is not correct.

4. I heard the learned counsel for the petitioner. By consent, the Criminal Revision Case is disposed of at the stage of admission itself.

5. Though, many points have been argued by the learned counsel for the petitioner, on a careful perusal of the impugned order, it is seen that the main grievance of the petitioner is that complainant's Company is represented by its Authorised Officer, who is the Security Officer of the complainant's Company, he being only a Security Officer, he cannot file the petition and he has no locus standi to file the petition. In my considered opinion, a Company can authorise any one of its employee or officer as the representative. Even though, the complainant is the Security Officer, he is an Officer and that is the main criteria to be taken note of and that does not preclude the complainant's Company from authorising him to represent on behalf of the complainant's Company. Hence, I do not find any reason to interfere with the reasoned order of the Trial Court. This Criminal Revision Case is dismissed. Consequently, connected miscellaneous petition is closed. It is made clear that the issue of locus standi shall be raised at the time of cross-examination and at the time of arguments. The question as regards the Letter of Authorisation without the resolution being enclosed shall also be raised by the petitioner and the same shall be decided by

the Trial Court at the time of final disposal of the main case. The petitioner is also permitted to raise all the grounds raised in this revision, at the time of arguments.

-Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

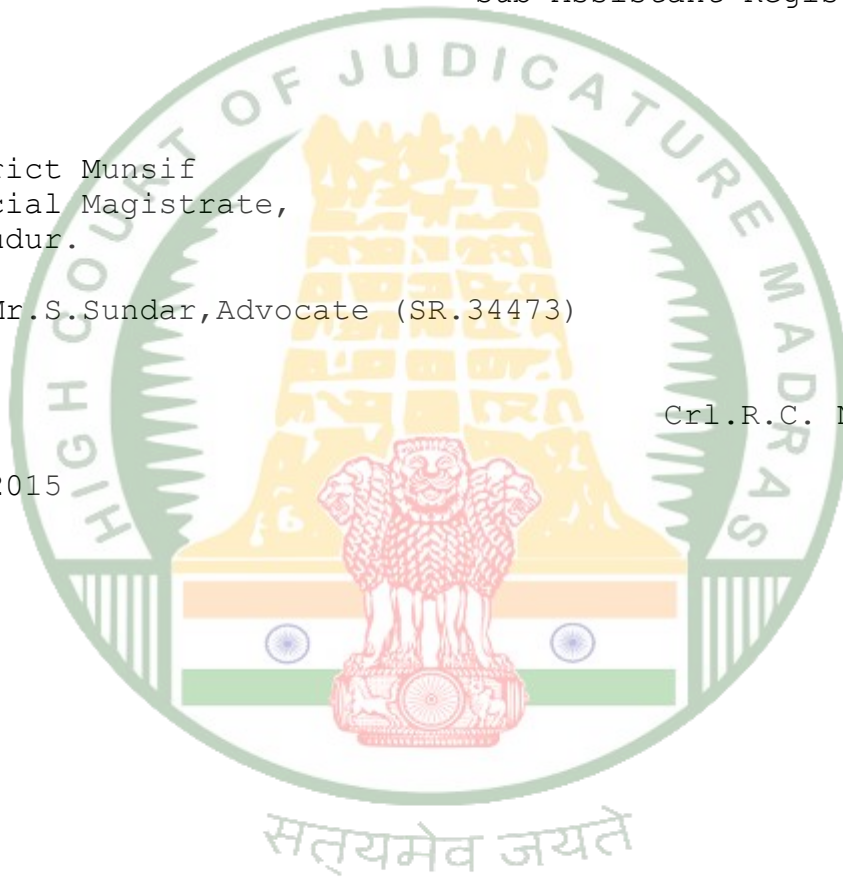
To

The District Munsif
-cum-Judicial Magistrate,
Sriperumbudur.

+1 cc to Mr.S.Sundar,Advocate (SR.34473)

BR(co)
cp 11.08.2015

Crl.R.C. No. 674 of 2015



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