

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.03.2015

CORAM

THE HONOURABLE MR.JUSTICE R.S.RAMANATHAN

Crl.O.P.No.5740 of 2010
and M.P.No.1 of 2010

1.C.Shanmugam
2.S.Ramaprabhu

.. Petitioners

vs.

M/s.S.S.Dye Chem
No.12, Ramasamy Street,
Erode-1,
Rep. By its Proprietor
S.Vaiyapuri

... Respondent

Criminal Original Petition filed under section 482 of Criminal Procedure Code praying to call for the records relating to the C.C.No.567 of 2004 on the file of the Judicial Magistrate II, Erode and quash the same.

For Petitioners : Mr.C.S.Saravanan

For Respondent : No Appearance

ORDER

This petition is filed to quash the proceedings in C.C.No.567 of 2004 on the file of the learned Judicial Magistrate II, Erode in so far as the petitioners are concerned.

2. The petitioners are A9 and A10 in C.C.No.567 of 2004. The respondent company filed the above complaint under Section 138 of Negotiable Instrument Act against the company as well the Managing Directors of the said company.

3. It is the submission of the learned counsel for the petitioners that the petitioners are A9 and A10 and they are only the Directors and they have not taken active part in the management of the business of the company and therefore, they are not responsible. He also submitted that in respect of A4 to A8, the complaint in C.C.No.567 of 2004 was quashed by this Court in Crl.O.P.Nos.18130 of 2005 and 20867 of 2007 by order dated 26.02.2010. He, therefore, submitted that the same benefit may be given to the petitioners as the petitioners are also occupying the same position as Directors.

4. Though the respondent is represented by their counsel and his name is also printed in the cause list, there is no representation on behalf of the respondent.

5. It is seen from the complaint that the petitioners are described as Directors of the 1st accused company and the 2nd accused is a Managing Director of the 1st accused company. It is further stated that all the accused are in charge and responsible for the day to day business activities of the 1st accused company. Except the said allegation, no other allegation were made in the complaint. In the judgment referred to above, the learned Judge quashed the complaint in respect of A4 to A8, who are also Directors of the 1st accused company. The petitioners are also Directors of the 1st accused company and therefore, the petitioners are also entitled to the benefit of the said decision referred to above.

6. Following the judgment in CrI.O.P.Nos.18130 of 2005 and 20867 of 2007, this criminal original petition is allowed. The proceedings in C.C.No.567 of 2004 on the file of the learned Judicial Magistrate II, Erode shall stand quashed in so far as the petitioners are concerned. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsm
To

1.The Judicial Magistrate II, Erode

2. The Chief Judicial Magistrate, Erode.

3.The Public Prosecutor,
High Court, Chennai.

CrI.O.P.No.5740 of 2010

RV(CO)
Eu 07.04.2015