

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP. No.30619 of 2011

and M.P.No.1 to 1 of 2011 and M.P.No.1 of 2015

1.M/s Sunbright Designers Pvt. Ltd
situated Module No.4-8
Sidco Readymade Garment Complex
Industrial Estate
Guindy, Chennai 600 032.

2.R.Shanmugha Velu ... Petitioners

Vs

Employees' State Insurance Corporation
having its Regional Office (Tamil Nadu)
at No.143, Sterling Road
Nungambakkam
Chennai 600 034 rep by
K.Seshan, Insurance Inspector
(Legal), Regional Office
ESI Corporation
Chennai 600 034.

... Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records and quash the complaint in C.C.No.3934 of 2010 on the file of the XIV Metropolitan Magistrate, Egmore, Chennai.

For Petitioners : Mr.M.Vijayakumar

ORDER

This petition has been filed to call for the records and quash the complaint in C.C.No.3934 of 2010 on the file of the XIV Metropolitan Magistrate, Egmore, Chennai.

2. Heard the learned counsel for the petitioners.

3. For the sake of convenience, the parties will be referred to as the complainant and accused.

4. It is the case of the complainant that the accused failed to pay the contributions under the ESI Act to a tune of Rs.60,000/-, in discharge of which the accused gave a cheque dated 25.12.2008 in favour of the complainant for Rs.60,000/-, which when presented was

dishonoured on the ground "Exceeds Arrangements." The complainant issued a statutory notice dated 7/9.01.09 under Section 138 of the Negotiable Instruments Act, which was received by the accused on 14.01.2009. Thereafter, the complaint in this case was filed on 30.03.2009 as could be seen from the date in the complaint. For prosecuting a person under Section 138 of the Negotiable Instruments Act, the complaint should be filed within 45 days from the date of receipt of notice, in other words, the accused should be given 15 days time after receipt of the notice to make the payment and if he fails to make the payment, the complaint should be preferred within 30 days after the expiry of the notice period, namely 15 days, thus aggregating to 45 days. In this case, admittedly, the notice was received on 14.01.2009, but the complaint was filed only on 30.03.2009, which is clearly beyond the period of limitation.

In the result, this petition is allowed and the proceedings in C.C.No.3934 of 2010 on the file of the XIV Metropolitan Magistrate, Egmore, Chennai are quashed. Consequently, connected miscellaneous petitions are closed.
Gms

Sd/-
Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To

1. XIV Metropolitan Magistrate,
Egmore, Chennai.
2. The Public Prosecutor,
High Court, Madras.

+1 C.C. To MR.M.Vijayakumar, Advocate in SR.NO.57098

+1 C.C. To MR.Venkateswamy Babu, Advocate in SR.NO.56995

Cr1.OP No.30619 of 2011

SK(CO)

sd : 04/11/2015