

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2015

CORAM:

THE HON'BLE MR.JUSTICE R.SUBBIAH

CrI.O.P.No.27232 of 2014
and
M.P.Nos.1 & 2 of 2014

1.Priyanka Devanand
2.Mary Rani

... Petitioners/A2 & 5

Vs.

Lafarge Aggregates & Concrete India Pvt. Ltd.,
rep. by Mr.T.Bala Subramaniam,
Plant System Administrator,
having registered office situated at
Crescenzo, 1004, "B" Wing,
10th Floor, "G" Block,
behind MCA, Bandra Kurla Complex,
Bandra-East,
Mumbai-400 051 and
having one of its branch offices at
Nos.94 & 95, R.R.Tower 1, Ground Floor,
Thiruveka Industrial Estate,
Guindy, Chennai-600 032.

... Respondent/Complainant

Prayer: Petition filed under Section 482 of Cr.P.C., praying to
call for the records and quash the criminal complaint filed by
the respondent against the petitioners in C.C.No.4329 of 2014
pending on the file of the learned IX Metropolitan Magistrate,
Saidapet, Chennai.

For Petitioners :M/s.Waraon & Sai Rams

For Respondent :Mr.K.Harishankar

* * * * *

ORDER

This petition has been filed praying to quash the criminal
proceedings in C.C.No.4329 of 2014 pending on the file of the
learned IX Metropolitan Magistrate, Saidapet, Chennai.
The petitioners herein have been arrayed as the accused No.2 & 5
in the said case filed under Section 138 of Negotiable
Instrument Act.

2.The respondent herein has filed the complaint stating that the 1st accused viz., M/s.J D Constructions and Promoters is a private limited company and the accused 2 to 5 are the directors of the 1st accused-company and they are responsible for the day-to-day functioning of the 1st accused-company. During the period from July to November, 2013, the accused persons approached the respondent/complainant and requested to supply concrete and accordingly, the respondent/complainant supplied the concrete as per the requirements and specification of the accused persons under various invoices and delivery challans. In respect of the concrete supply made by the respondent/complainant, two cheques were issued by the accused persons bearing Registration Nos.500393 & 500394, dated 11.11.2013 & 13.11.2013, drawn on State Bank of Travancore, K.K.Nagar Branch, Chennai, for a total sum of Rs.4,33,254/- in favour of the respondent-complainant. As per the instructions of the accused persons, the aforesaid cheques were deposited by the respondent/complainant with its banker's ie., Yes Bank Ltd, during the validity of the said cheques on 11.11.2013 & 13.11.2013. However, to the utter shock and surprise of the respondent/complainant, the aforesaid cheques were dishonored and returned unpaid for the reason "Insufficient Fund" & "Payment Stopped by Drawer", intimation of which was received by the respondent/complainant through its Bankers vide the bank return memo dated 12.11.2013 & 14.11.2013, received by the respondent/complainant on 14.11.2013 & 19.11.2013. Thereafter, the respondent/complainant issued demand notice dated 05.12.2013 to the accused persons, calling upon all the accused to pay the cheque amount within a period of 15 days from the date of receipt of the notice. The notice was received by the accused persons on 09.12.2013. Even after the receipt of notice, the accused persons failed to settle/pay the cheque amount within the statutory period. Hence, the respondent lodged a private complainant before the learned IX Metropolitan Magistrate, Saidapet, Chennai and the same was taken on filed in C.C.4329 of 2014.

3.Now, the petitioners herein have come forward with the present petition before this Court seeking to quash the said criminal complaint.

4.Heard the learned counsel appearing for the petitioners as well as the learned counsel appearing for the respondent and perused the materials available on record.

5.It is the main ground raised by the learned counsel for the petitioners that at the relevant point of time, the petitioners herein were not functioning as Directors of the 1st accused/company. The petitioners herein have resigned from the directorship of the 1st accused/company on 01.09.2012. But, the

Cheques in dispute were issued on 11.11.2013 & 13.11.2013, much after the resignation of the petitioners from the 1st accused/company.

6.Considering the facts and circumstances of the case, this Court is of the view that the submissions made by the learned counsel for the petitioner could, at the maximum, be their defence in the trial and the same cannot serve as a ground to quash the criminal proceedings at this stage. The petitioners have not made out a case to quash the criminal proceedings. I am not inclined to entertain the present petition and the same is liable to be dismissed.

In fine, the criminal original petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

1. The IX Metropolitan Magistrate,
Saidapet, Chennai.
2. -do- thro the Chief Metropolitan Magistrate,
Egmore, Chennai 8.

+ 2 ccs to Mr.K.Harishankar, Advocate SR 64142

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