

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 03.07.2015

DELIVERED ON : 13.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.O.P. No.28406 of 2014
and M.P.Nos.1 of 2014 & 1/2015

Sri Nellulta Venkateswara Rao .. Petitioner

Vs

Sify Technologies Limited
Rep by its Executive Secretarial,
Mr.D.J.Poornachander
2nd Floor Tidel Park No.4
Rajiv Gandhi Salai, Taramani
Chennai 600 113. .. Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in C.C.No.3031 of 2014, on the file of the Court of III Fast Track Metropolitan Magistrate, Saidapet, Chennai and to quash the same as illegal, null and void.

For Petitioner Mr.Ravikumar
For Respondent M/s PSA Legal Counsellors

ORDER

This petition has been filed to call for the records in C.C.No.3031 of 2014, on the file of the Court of III Fast Track Metropolitan Magistrate, Saidapet, Chennai and quash the same as illegal, null and void.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

3. The respondent herein has lodged a complaint against the petitioner for an offence under Section 138 of the Negotiable Instruments Act in C.C.No.3031 of 2014 before the learned XVIII Metropolitan Magistrate, Saidapet, which was subsequently transferred to the file of the III Fast Track Metropolitan Magistrate Court, Saidapet, Chennai, and is under challenge in this quash proceedings.

4. It is the case of the complainant that they are internet service providers and had provided certain services to "Sprint Marketers" and for the amount due from "Sprint Marketers", the petitioner/accused had issued three cheques, total amounting to Rs.49,50,000/-, which when presented were returned for insufficient funds, following which the complainant issued a statutory notice under Section 138 of the Negotiable Instruments Act and thereafter, launched the present prosecution.

5. The learned counsel for the petitioner submitted that there is no legally enforceable debt inasmuch as even according to the complainant, the amount was due only from Sprint Marketers Limited, Hongkong and not from the petitioner. He relied on Deed of Composition in support of this argument. The Hon'ble Supreme Court in S.Krishnamoorthy vs. Chellammal [(2015) 4 Scale 371] has clearly held that, the Court should not go into disputed questions of fact under Section 482 Cr.P.C. while dealing with a quash application for an offence under Section 138 of the Negotiable Instruments Act. Hence, this Court cannot go into the disputed questions of fact as to whether there was any legally enforceable debt vis-a-vis the petitioner herein.

In the result, this petition is devoid of merits and the same is dismissed. Consequently, connected miscellaneous petitions are closed.

gms

s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

1. III Fast Track Metropolitan Magistrate,
Saidapet, Chennai

+ 2 ccs to Mr.R.Ravikumar, Advocate SR 35094

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prk24/7

Cr1.O.P. No.28406 of 2014