

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2015

CORAM

THE HON'BLE MR. JUSTICE R.S.RAMANATHAN

Crl.O.P.No.23019 of 2010

and

M.P.No.1 of 2010 and M.P.No.1 of 2011

Mr.Kiran Ramsay
Proprietor
OM Film Company

...Petitioner

vs.

M/s.Dhanabakkim Enterprises,
rep. by its Partner Rakesh Sarin
E-5th Floor, Mookambika Complex,
No.4, Lady Desika Road,
Mylapore, Chennai - 4.

...Respondent

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code to call for records relating to the case in C.C.No.3476 of 2010, on the file of XIII Metropolitan Magistrate, Egmore, Chennai - 600 008 and to quash the same.

For Petitioner : Mr.V.Vedavalli Kumar

For Respondent : Mr.T.N.Bhuvaneswaran

सत्यमेव जयते
O R D E R

The petitioner is the accused in C.C.No.3476 of 2010, on the file of XIII Metropolitan Magistrate, Egmore, Chennai.

2. The respondent/complainant has filed the above case against the petitioner for offence under Section 138 of Negotiable Instruments Act, 1881, and this Petition is filed to quash the said case.

3. It is submitted by the learned counsel appearing for the petitioner that petitioner had no transaction with the respondent, and the petitioner had transaction only with Mr.Akshay Sarin, and gave various cheques as security, and those cheques were misused by the said Mr.Akshay Sarin, and filled up the name of the respondent/complainant. Hence, the petitioner is not liable to pay any amount, and there is also no legally enforceable debt or liability payable by the petitioner. The learned counsel also relied upon the e-mail sent by the petitioner with list of cheques, which were given as security to the said Akshay Sarin and the reply e.mail sent by the complainant, and the learned counsel submitted that this would substantiate the case of the petitioner. The learned counsel further submitted that the respondent/complainant was M/s.Dhanabakkim Enterprises, and notice was issued by Akshay Sarin on 27.07.2010, and on that ground also, this Petition is liable to be allowed.

4. The learned counsel appearing for the respondent has submitted that the notice alleged to have been sent by Akshay Sarin on 27.07.2010 was not in respect of the cheque, which is the subject matter of this complaint, and the petitioner deliberately suppressed the notice sent in respect of the cheque No.065920 drawn on IDBI Bank for a sum of Rs.10,00,000/-.

5. I am unable to accept the contentions of the learned counsel appearing for the petitioner. Whether the cheques were given as security or not, cannot be gone into at this stage, and it is for the petitioner to lead evidence and substantiate the same during trial. Further, the respondent/complainant filed the above complaint, and in the typed set of papers enclosed with the copy of the notice sent by Akshay Sarin, dated 27.07.2010, and in that notice, there was no reference to the cheque, bearing No.065920, dated 15.7.2010 drawn on IDBI Bank, for a sum of Rs.10,00,000/-, which is the subject matter of the present complaint. The copy of the cheque was also not filed, and in the grounds of this Petition, no plea has been raised that statutory notice was not issued by the respondent/complainant, and in the notice, there was no reference to the cheque amount or the complainant was not payee under the cheque.

6. According to me, all these aspects have to be gone into only during trial by both parties by adducing evidence and same cannot be gone into at this stage in the quash Petition.

7. In the result, the Criminal Original Petition is dismissed. The Trial Court is directed to dispose of the case in C.C.No.3476 of 2010, within a period of four months from the date of receipt of a

copy of this order. Consequently, connected M.Ps. are closed.

Sd/-
Deputy Registrar(J)

//True Copy//

Sub Assistant Registrar

sd

To

1. The XIII Metropolitan Magistrate, Egmore,
Chennai - 600 008.

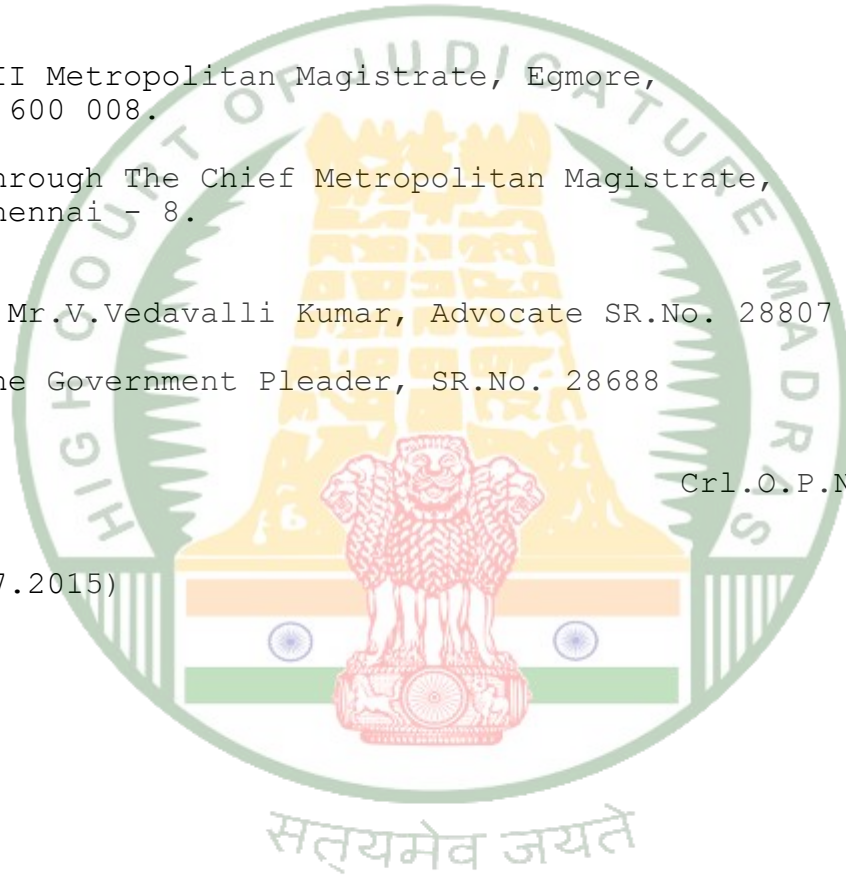
2. -Do- Through The Chief Metropolitan Magistrate,
Egmore, Chennai - 8.

2 CCs to Mr.V.Vedavalli Kumar, Advocate SR.No. 28807

1 CC to the Government Pleader, SR.No. 28688

CrI.O.P.No.23019 of 2010

RJ (CO)
PSI (14.07.2015)



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