

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30-10-2015

CORAM:

THE HON'BLE MR. JUSTICE P.N.PRAKASH

Crl.O.P.No.2164 of 2013 & M.P.Nos.1, 2 of 2013
Crl.O.P.No.8284 of 2013 & M.P.Nos.1, 2 of 2013
Crl.O.P.No.14642 of 2013 & M.P.No.1 of 2013

1. M/s.Deccan Chronicle Holdings Ltd.
rep.by its Chairman, T.Venkatram Reddy
No.36, Sarojini Devi Road,
Secunderabad - 560 003.
2. T. Venkatram Reddy
3. T. Vinayak Ravi Reddy
4. P.K. Iyer
5. G. Kumar
6. M.Sukumar Reddy
7. V. Suresh ... Petitioners in all Crl.O.Ps.

Vs.

M/s.United India Insurance Co.Ltd.,
Registered & Head Office at
24, White Road, Chennai
rep.by its Assistant Manager N.Mohan

.. Respondent in all Crl.O.Ps.

Prayer in Crl.O.P.No.2164/2013: Criminal Original Petition
filed under Section 482 of Code of Criminal Procedure with a
prayer to call for the records in C.C.No.3910 of 2012 pending on
the file of the learned XVIII Metropolitan Magistrate, Saidapet,
Chennai and quash the same.

Prayer in Crl.O.P.No.8284/2013: Criminal Original Petition
filed under Section 482 of Code of Criminal Procedure with a
prayer to call for the records in C.C.No.367 of 2013 pending on
the file of the learned XVIII Metropolitan Magistrate, Saidapet,
Chennai and quash the same.

Prayer in CrI.O.P.No.14642/2013: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure with a prayer to call for the records in C.C.No.1313 of 2013 pending on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioners in : Mr.N.R.Chandran, Sr.Counsel
all CrI.OPs for Mr.K.Rajasekar

For Respondent in : Mr.N.Vijayaraghavan
all CrI OPs

Reserved on	Pronounced on
2-9-2015	30-10-2015

COMMON ORDER

The accused, who are facing prosecution for an offence under Section 138 of Negotiable Instruments Act, 1881, in C.C.No.3910/2012, 367/2013 and 1313/2013 respectively before the XVIII Metropolitan Magistrate, Saidapet, Chennai, are the petitioners in the present quash petitions.

2. For the sake of convenience, the parties will be referred to as 'the Complainant' and 'the accused'.

3. It is the case of the Complainant that the first accused had come out with an issue of 11.25% Redeemable Non-Convertible Debentures of Rs.10,00,000/- each. The issue was offered to the institutional investors by private placement by the first accused, through Industrial Development Finance Co. Ltd. The Complainant, which was approached for subscribing to the issue, had purchased in all 300 Debentures on various dates for a sum of Rs.30 crores under the belief that the accused will promptly pay the maturity amount together with interest, when the Debentures fall due for payment. The Debentures were transferred to the Complainant in demat form.

4. It appears that the accused did not honour the commitment on the agreed date, but undertook to repay the amount in three installments to the Complainant. Accordingly, the accused issued three cheques for Rs.10 Crores each on 1.8.2012, 1.9.2012 and 1.10.2012, which when presented for clearance, were dishonoured, and after issuing the statutory notice, the Complainant lodged the aforesaid three complaints against the accused.

5. When the matter was taken up for hearing, this Court pointed out the frailty in the grounds raised by the accused for quashing the prosecution, and Mr.N.R.Chandran, learned Senior

Counsel appearing for the accused fairly conceded and agreed with the observations of this Court. However, he submitted that this Court may consider applying the mandate in Section 4 (142A(3) of the parent Act) of the Negotiable Instruments (Amendment) Second Ordinance, 2015 and transfer the three cases pending on the file of XVIII Metropolitan Magistrate Court, Chennai, to the file of the XI Additional Chief Metropolitan Magistrate Court at Secundarabad, where prosecution under Section 138 of the Negotiable Instruments Act, 1881 has been initiated by the same Complainant against the same accused in C.C.No.1588 of 2012.

6. Section 4 of the Negotiable Instruments (Amendment) Second Ordinance, 2015 reads as follows:

"Section 4. In the principal Act, after Section 142, the following section shall be inserted, namely-

"142-A. Validation for transfer of pending cases.-

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or any judgment, decree, order or directions of any court, all cases arising out of Section 138 which were pending in any court, whether filed before it, or transferred to it, before the commencement of the Negotiable Instruments (Amendment) Ordinance, 2015 shall be transferred to the court having jurisdiction under sub-section (2) of Section 142 as if that sub-section had been in force at all material times.

(2) Notwithstanding anything contained in sub-section (2) of Section 142 or sub-section (1), where the payee or the holder in due course, as the case may be, has filed a complaint against the drawer of a cheque in the court having jurisdiction under sub-section (2) of Section 142 or the case has been transferred to that court under sub-section (1), and such complaint is pending in that court, all subsequent complaints arising out of Section 138 against the same drawer shall be filed before the same court irrespective of whether those cheques were delivered for collection or presented for payment within the territorial jurisdiction of that court.

(3) If, on the date of the commencement of the Negotiable Instruments (Amendment) Ordinance, 2015, more than one prosecution filed by the same payee or holder in due course, as the case may be, against the same drawer of cheques is pending before different courts, upon the said fact having been brought to the notice of the court, such court shall transfer the case to the court having jurisdiction under sub-section (2) of Section 142 before which the first case was filed and is pending, as if that sub-section had been in force at all material times." "

7. Mr.N.Vijayaraghavan, learned Counsel appearing for the Complainant submitted that the prosecution in Secundarabad was initiated first and only thereafter the aforesaid three cases were filed in Chennai.

8. In the result, this Court directs the learned XVIII Metropolitan Magistrate, Saidapet, Chennai, to transfer the entire case bundle in C.C.Nos. 3910/2012, 367/2013 and 1313/2013 to the file of the XI Additional Chief Metropolitan Magistrate Court, Secundarabad, Telengana, within a period of four weeks from the date of receipt of copy of this order, to be tried along with C.C.No.1588 of 2012, pending between the same parties. The petitioners/accused shall appear before the XVIII Metropolitan Magistrate Court, Saidapet, Chennai and give a written undertaking stating that on such transfer, they would themselves voluntarily appear before the said Court. The petitioners/accused are directed to deposit a sum of Rs.2,000/- with the XVIII Metropolitan Magistrate, Saidapet, Chennai, for defraying postal expenses within two weeks. Option is given to the respondent/complainant also to deposit the sum of Rs.2,000/- for defraying the postal expenses.

All the Criminal Original Petitions are disposed of with the above directions. Connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

vr

To

1. The XVIII Metropolitan Magistrate,
Saidapet, Chennai.

2. The XI Additional Chief Metropolitan Magistrate
Secundarabad, Telungana.

+3 ccs to Mr.K.Rajasekar, Advocate, sr.59130

+2 ccs to Mr.M.B.Gopalan, Advocate, sr.59906, 59908

+1cc to Mr.M.B.Gopalan, Advocate sr. 59907[19/11/2015]

Crl.O.P.Nos.2164, 8284 &
14642 of 2013

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