

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2015

CORAM:

The Hon'ble Mr.Justice R.S.Ramanathan

CRL.O.P.No.32651 of 2013 and
M.P.Nos.1 and 2 of 2013

Dr.Zackria Sait
Managing Director,
M/s Presidency Kid Leather Limited
EVP Padma Avenue, Vellancheri Village
Guduvancheri - 603 203 ... Petitioner/Accused

Vs.

M/s Ziss Enterprises Pvt., Ltd.,
rep. By its Director,
G.Sakthi Vinod Rajan
through his Power of attorney
S.Suriyakumar
No.226, Kilpauk Garden Road,
Om Sakthi Plaza, 4th floor,
Kilpauk, Chennai - 600 010 ...Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C., to
call for the records in C.C.No.160/2013 on the file of Metropolitan
Magistrate II (Fast Track Court-I) Egmore, Chennai and quash the
same as against the same.

For Petitioner : Mr.Zaffarullah Khan
For Respondent : M/s.K.V.Muthuvisakan
S.Thambi

O R D E R

The petitioner is said to be the accused in
C.C.No.160/2013 on the file of Metropolitan Magistrate II (Fast
Track Court-I) Egmore, Chennai and has filed this petition to quash
the private complaint filed by the respondent herein, which is
initiated under Section 138 of Negotiable Instruments Act.

2. It is submitted by the learned counsel for the petitioner,
who is arrayed as accused in C.C.No.160 of 2013 that the cheque was
issued by M/s Presidency Kid Leather Limited represented by its
Managing Director and therefore, the offence has been committed by
the said Company and without impleading the Company, the Managing
Director, who issued the cheque on behalf of the company has been
arrayed as an accused and therefore, the complaint filed by the

respondent herein in C.C.No.160 of 2014 is not maintainable on the basis of the Judgment of the Hon'ble Supreme Court reported in (2012) 5 Supreme Court Cases 661 (Aneeta Hada Vs.Godfather Travels & Tours (P) Ltd).

3. It is submitted by the learned counsel for the respondent/Complainant that though the cheque was issued by the company, it is the Managing Director, who issued the cheque on behalf of the company and therefore, even in the absence of the Company, the Managing Director is responsible and therefore, the complaint filed against the Managing Director is maintainable.

4. I am unable to accept the contention of the learned counsel for the respondent/complainant. As per Judgment of the Hon'ble Supreme Court reported in (2012) 5 Supreme Court Cases 661 (Aneeta Hada Vs.Godfather Travels & Tours (P) Ltd), when the cheque has been issued by the Company, it is the company, who has to be arrayed as an accused along with the Managing Director and other Directors of the Company, who are incharge of the day to-day affairs of the company.

5.Admittedly, the cheque was issued by the company, but the complaint was filed against the Managing Director and notice was issued only to the Managing Director and not to the company. Hence as per the Judgment of the Hon'ble Supreme Court as stated supra, the complaint is not maintainable.

6.In the light of the above facts, the Criminal Original Petition is allowed and the complaint in C.C.No.160 of 2013 pending on the file of the Metropolitan Magistrate - II, (Fast Track Court-I, Egmore, Chennai) is quashed. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

ssd

To

1.The Metropolitan Magistrate II (Fast Track Court-I)
Egmore, Chennai

WEB COPY

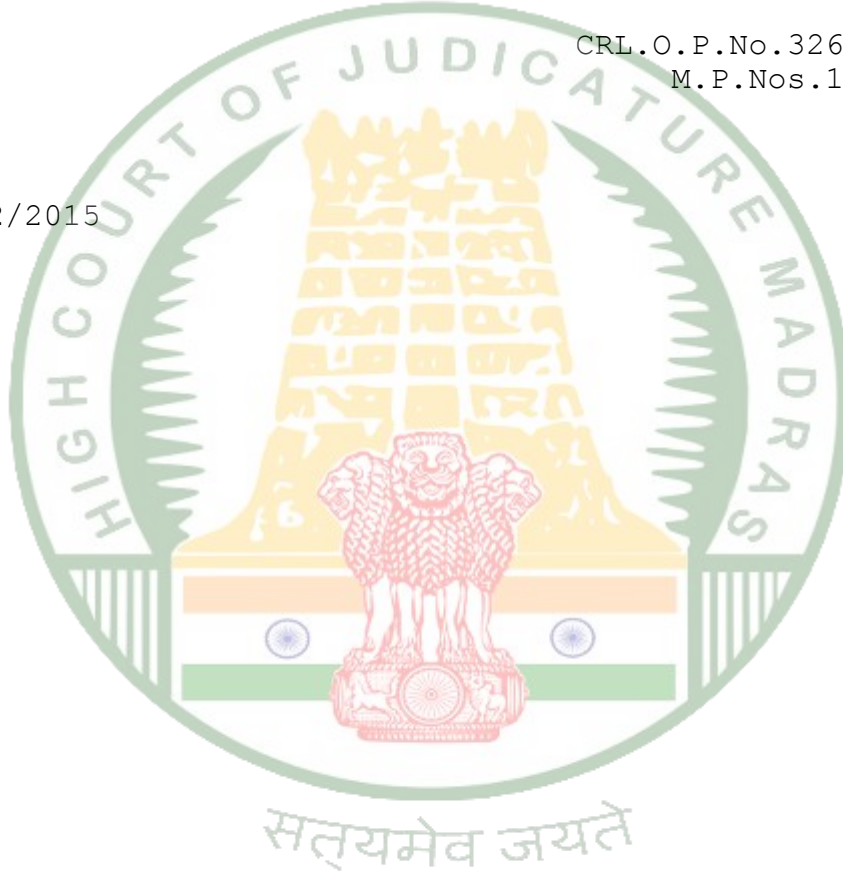
2 The Public Prosecutor,
High Court of Madras,
Chennai.

+1 CC to M/s.K.V.Muthuvisakan, Advocate SR.NO.8262

+1 CC to Mr.Zaffarullah Khan, Advocate SR.NO.8725

SCD (CO)
DRL :21/02/2015

CRL.O.P.No.32651 of 2013 and
M.P.Nos.1 and 2 of 2013



WEB COPY