

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:04.02.2015

CORAM

THE HON'BLE MR. JUSTICE R.KARUPPIAH

Crl.O.P.No.15220 of 2010
and
M.P.Nos.1 and 2 of 2010

1.G.Venkat
2.G.Jeevanandam
3.G.Vijay @ G.P.Vijayakumar ..Petitioners/Accused Nos.2 to 4

Vs.

M/s.Kerry Reliable Logistics Pvt. Ltd.,
Formerly known as Reliable Freight
Forwarders Pvt., Ltd.,
No.92, Thambu Chetty Street,
EMR Complex, 1st Floor,
Chennai-600 001.
(Represented by its Accounts
Executive and Power of Attorney
Agent Mr.Sagayam). ..Respondent / Complainant

Prayer: Criminal Original Petition is filed under Section 482 of
Cr.P.C. praying to call for the records in C.C.No.92 of 2009 on the
file of the VII Metropolitan Magistrate, George Town, Chennai and to
quash the complaint against the Petitioners/Accused Nos.2 to 4.

For Petitioners : Mr.N.S.Sivakumar

For Respondent : Mr.P.Muralidharan

सत्यमेव जयते
O R D E R

This criminal original petition has been filed to quash the
proceedings in C.C.No.92 of 2009 on the file of the VII Metropolitan
Magistrate, George Town, Chennai against the Petitioners/Accused
Nos.2 to 4.

2. On earlier hearing on 22.01.2015, the learned counsel
appearing for the petitioners made an endorsement in the petition "As
instructed insofar as petitioners 1 and 2, I am not pressing this
petition". In view of the above said endorsement made by the learned
counsel for the petitioner, this petition is dismissed as against the
petitioners 1 and 2 as not pressed.

3. Heard the learned counsel appearing for 3rd petitioner and the respondent.

4. Briefly the case of the third petitioner is that, the respondent filed a complaint in C.C.No.92 of 2009 by stating that the 1st accused firm, in which this third petitioner and also other two petitioner No.1 and 2 were partners and on behalf of partnership firms issued a cheque No.205949 dated 21.11.2007 in favour of respondent as drawn on State Bank of India, Overseas Branch, Tiruppur for a sum of Rs.4,00,000/-. The above said cheque was presented for enhancement but, it was returned on 20.05.2008 with the endorsement ''Funds Insufficient'', which was intimated by the Bank on 28.05.2008. The respondent has issued statutory legal notice on 24.06.2008 to all the accused (i.e.,) these three petitioners and first accused in the main case. Since no reply for the above said notice and also the payment was not made, the respondent has given complaint before the Magistrate Court under Sections 138 to 141 of Negotiable Instruments Act and it is pending as C.C.No.92 of 2009.

5. During the pendency of the above said proceedings, the three petitioners, who are arrayed as accused Nos.2 to 4, filed this petition to quash the proceedings. As already stated the learned counsel appearing for the petitioners made an endorsement as not pressed the petitioner as against the Petitioners 1 and 2 / Accused 2 and 3. The learned counsel submitted that third petitioner (A4) was not a partner at the time of issuing cheque and this third petitioner (A4) was inducted as a partner only on 23.03.2009 and therefore, the complaint against third petitioner (A3) is liable to be quashed. The learned counsel appearing for the respondent also accepted the above said contention that this third petitioner / 4th accused inducted as partner, only on 23.03.2009 under Form-A of Registrar of Firms.

6. In view of the above said submissions, C.C.No.92 of 2009 against the third petitioner / 4th accused is liable to be quashed. But, this criminal original petition regarding 1st and 2nd petitioners (A2 and A3) as already ordered, dismissed as not pressed. Accordingly, this criminal original petition is disposed of. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar
Dated:20.3.15

True Copy

Sub Assistant Registrar

To

1. The VII Metropolitan Magistrate,
George Town, Chennai.

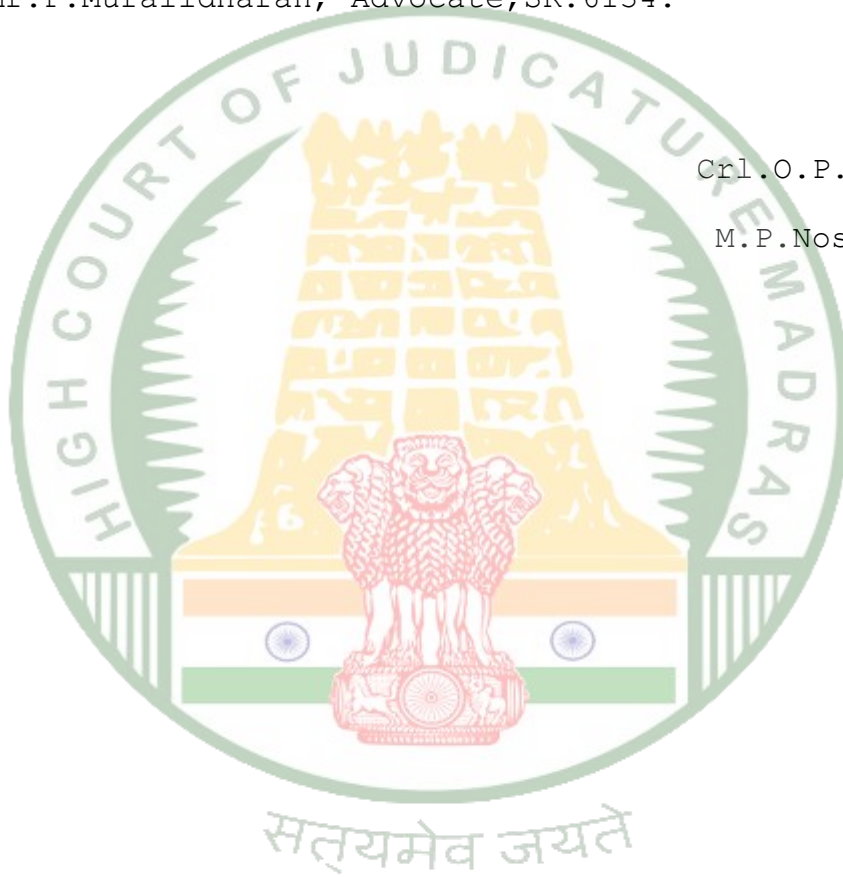
2. The Public Prosecutor,
Madras High Court,
Chennai-104.

+1 cc to Mr.N.S.Sivakumar, advocate,SR.6418

+1 cc to Mr.P.Muralidharan, Advocate,SR.6134.

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krd 26/3

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