

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2015

Coram

THE HONOURABLE MR. JUSTICE R.S.RAMANATHAN

Crl.O.P.No.28683 of 2010

and

M.P.No.1 of 2010

Faizel Hashim
Executive Director,
M/s Chennai Fashions (India) Pvt. Ltd.,
K-45 Apparel Park,
Katrambakkam, Main Road, Sipcot,
Irrungattukottai,
Sriperumbudur,
Kancheepuram District 602 105. ...Petitioner

/vs/

Mr.S.L.Sud
Prop M/s South India Marketing Associates,
Rep.by its Power Agent P.Viswanathan,
No.10, Ganga Nagar,
1st Main Road,
Kodambakkam,
Chennai 600 024. ...Respondent

Prayer:

Criminal Original Petition filed under Section 482 of Criminal Procedure Code praying to call for the records in C.C.No.14412 of 2009 on the file of XVII Metropolitan Magistrate Court, Saidapet, Chennai and quash the same.

For Petitioner : Mr.Rishi.S.Ahuja
For Respondent :Mr.K.G.Senthilkumar

ORDER

The accused in C.C.No.14412/2009 on the file of XVII Metropolitan Magistrate, Saidapet, Chennai is the petitioner.

2.This petition is filed by the respondent under Section 138 of Negotiable Instruments Act to quash the above complaint in C.C.No.14412 of 2009 on the file of the XVII Metropolitan Magistrate, Saidpet, Chennai.

3.It is submitted by the learned counsel appearing for the petitioner that prosecution was launched against the petitioner in the capacity of Executive Director, without impleading the company. Therefore, the prosecution is bad in law as per the judgment of the Hon'ble Supreme Court in Aneeta Hada and others v. Godather Travels & Tours Pvt.Ltd. and another [2012 (5)CTC 101].

4.The learned counsel appearing for the respondent submitted that though a cheque was issued in the name of the company, cheque was signed by the petitioner in the capacity of Executive Director. Therefore, he was arrayed as accused.

5.I am unable to accept the contention of the learned counsel for the respondent. In the above said judgment, the Hon'ble Supreme Court held that without impleading the company, the Executive Director or Directors cannot be made as party and the Directors are vicariously liable only after making the company as party. Hence, the prosecution launched by the respondent against the petitioner, without impleading the company, is bad in law and in the light of the judgment referred above, this criminal original petition deserves to be allowed.

6.In the result, this criminal original petition is allowed and the complaint in C.C.No.14412 of 2009 on the file of the XVII Metropolitan Magistrate Court, Saidapet, Chennai is quashed. Consequently, the connected Miscellaneous Petition is also closed.

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s/d-

Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

To

1.The XVII Metropolitan Magistrate,
Saidapet,
Chennai.

2.-do- thro' The Chief Judicial Magistrate,
Egmore, Chennai.

3.The Section Officer,
Criminal Section,
High Court, Madras.

+ 3 ccs to Mr.Rishi S.Ahuja, Advocate sR 28454

ksj(co)
prk19/6

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