

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2015

CORAM

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

Crl.O.P.Nos.29440 + 29449 of 2010
and
Crl.O.P.No.2690 of 2011
and
M.P.Nos.1 and 1 of 2010
and
M.P.No.1 of 2011

Govindaraj

...Petitioner in all Crl.O.Ps

vs.

M/s.Siva Castings
rep. by its Proprietor
Mrs.Rajeswari

...Respondent in all Crl.O.Ps

Prayer in all Crl.O.Ps Criminal Original Petitions, filed under Section 482 of the Criminal Procedure Code to call for records relating to the cases in C.C.Nos.259, 294 and 387 of 2010, respectively, on the file of the Judicial Magistrate, Avinashi, and to quash the same.

For Petitioner : Mr.V.Sairam

For Respondent : Mr.V.Ananda Moorthy

C O M M O N O R D E R

The accused in C.C.Nos.259, 294 and 387 of 2010 respectively, on the file of the Judicial Magistrate, Avinashi, is the petitioner herein, and these Petitions are filed to quash the said cases.

2. The learned counsel appearing for the petitioner has submitted that, even according to the allegations made in the complaints, cheques were issued by the Company, named K.G.R.Trading Private Ltd., and prosecution was launched against the petitioner,

who is the Director of the said Company, but the Company has not been made as party to the proceedings, therefore, entire proceedings are liable to be quashed as per the judgment reported in (2012) 5 S.C.C. 661 in re (Aneeta Hada Vs. Godfather Travels and Tours Pvt. Ltd).

3. The learned counsel appearing for the respondent has submitted that, though the cheques were issued on behalf of the Company, viz., K.G.R.Trading Private Ltd, the petitioner has signed the cheque and trial has commenced, and at this stage, there is no need to quash the complaints.

4. I am unable to accept the contention of the learned counsel appearing for the respondent. Admittedly, cheques were issued by the aforesaid Company, and it has not been made as party to the proceedings, and no notice was issued to the Company. As per the judgement rendered by the Hon'ble Supreme Court in Aneeta Hada's case, referred to above, if the cheque was issued by the Company, without impleading the Company, its Directors cannot be made vicariously liable for the act of the Company. Hence, the prosecution against the petitioner, without impleading the Company is bad in law, and hence, complaints are liable to be quashed.

5. In the result, these Criminal Original Petitions are allowed, the complaints filed against the petitioner in C.C.Nos.259, 294 and 387 of 2010 on the file of the Judicial Magistrate, Avinashi respectively are quashed. Consequently, connected M.Ps. are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate,
Avinashi.

2. -Do- Through The Chief Judicial Magistrate,
Coimbatore.

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and Crl.O.P.No.2690 of 2011

KSJ (CO)PSI (13.07.2015)