

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2016

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.OP.Nos.12197 & 12271 of 2016
and
Crl.MP.Nos.6269, 6270, 6313 & 6314 of 2016

1.M/s.Summer India Textile Mills Private Limited,
Rep. by A.R.Asaithambee,
Managing Director,
Post Box No.12,
176/2, Kozhikalnatham Road,
Thiruchengode-637 211.

2.A.R.Asaithambee

3.A.Amuthaa

...Petitioners in both Crl.OPS./Respondents 1, 4 & 5

Vs.

M.Hemalaltha ...Respondent in Crl.OP.No.12197/16/Complainant

K.Sekar ...Respondent in Crl.OP.No.12271/16/Complainant

Criminal Original Petitions filed under Section 482 of the Code of Criminal Procedure to call for the records in complaint in STC Nos.228 and 229 of 2016 pending on the file of the learned Judicial Magistrate, Thiruchengode under Section 138, 142 and 143 of the Negotiable Instruments Act and to quash the same.

For Petitioner : Mr.S.Ramesh
in both CrIOPs.

For Respondent : Mr.T.Murugamanickam
in both CrIOPs.

C O M M O N O R D E R

These petitions have been filed to quash the proceedings in STC. Nos.228 and 229 of 2016 pending on the file of the learned Judicial Magistrate, Thiruchengode under Sections 138, 142 and 143 of the Negotiable Instruments Act.

2. For the sake of convenience, the parties will be referred to as complainant and accused. It is the case of the complainant, that they had supplied fire wood to M/s.Summer

India Textiles and Mills Pvt. Ltd. [A1] towards which, a sum of Rs.46,48,141/- is due and in discharge of the said liability, M/s.Summer India Textiles and Mills Pvt. Ltd. [A1] has issued two cheques for Rs.10,00,000/- each and two cheques for Rs.5,00,000/- each, which when presented, were dishonoured and after issuing statutory notice under Section 138 of Negotiable Instruments Act, the complainant has launched prosecution in STC.No.228 of 2016 and STC.No.229 of 2016 before the learned Judicial Magistrate, Tiruchengode, against M/s.Summer India Textiles and Mills Pvt. Ltd. [A1] and five others of whom, M/s.Summer India Textiles and Mills Pvt. Ltd. [A1], Aasaithambee [A4] and Amutha [A5] are before this Court for quashing the prosecution on the ground that the impugned cheques were given as security, which has been misused by the complainant.

3. Heard Mr.S.Ramesh, learned counsel for the accused and Mr.T.Muruga Manickam, learned counsel for the complainant and perused the materials available on record.

4. In the considered opinion of this Court, in the light of the law laid down by the Hon'ble Supreme Court in S.Krishnamurthy Vs Chellammal [2015] 4 Scale 371, the disputed question of facts cannot be gone into, in a proceeding under Section 482 Cr.P.C. Hence, these petitions are dismissed with liberty to the petitioners/accused to raise all the points before the trial Court. Consequently, connected Miscellaneous Petitions are closed.

5. However, Mr.Ramesh, learned counsel for the accused submits that the 1st accused is a Company and a juristic person and sought leave of this Court to give a direction to the trial Court to permit one Prabakaran, General Manager to represent M/s.Summer India Textiles and Mills Pvt. Ltd. under Section 305[2] Cr.P.C.

6. This Court is of the view that it is for the Corporation to appoint any person to represent it, in a prosecution and therefore, liberty is given to the petitioners/accused to file an application under Section 305 [2] Cr.P.C. before the trial Court.

gya

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Judicial Magistrate, Thiruchengode.

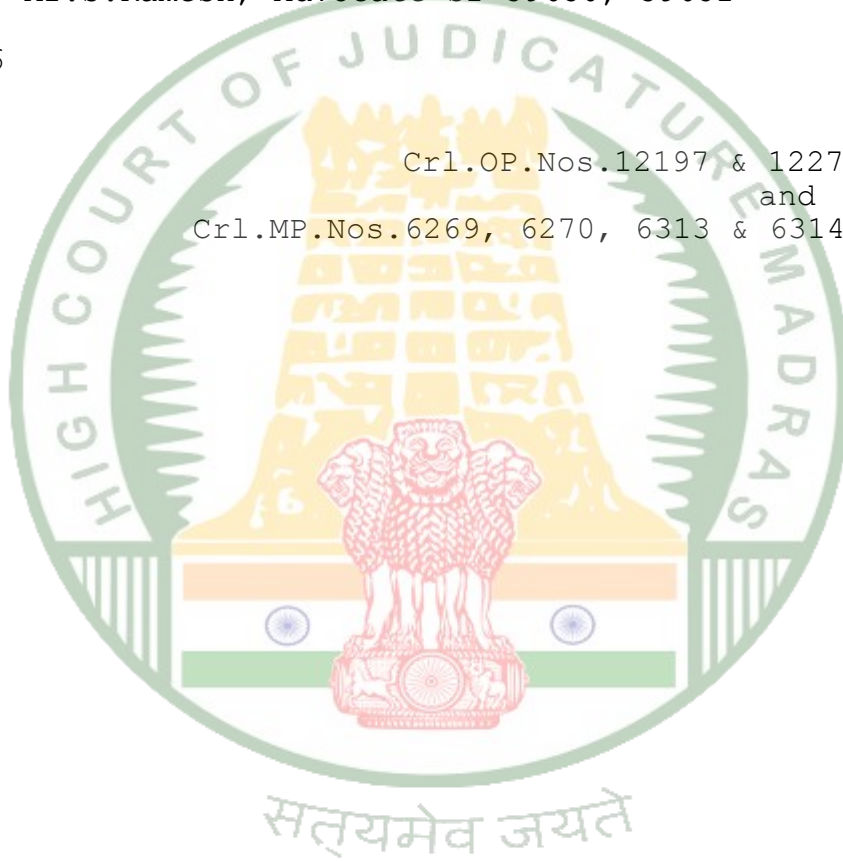
2.-do- thro' The Chief Judicial Magistrate, Namakkal.

3.The Public Prosecutor, High Court, Chennai.

+ 2 ccs to Mr.T.Murugamanickam, Advocate Sr 39605, 39607

+ 2 ccs to Mr.S.Ramesh, Advocate Sr 39650, 39651

KR/26/7/16



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