

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.22984 of 2015
and M.P.Nos.1 and 2 of 2015

1.S.S.M.Processing Mills Ltd
rep by its Director, P.Elango.
2.P.Elango
3.E.Nirmala
4.P.E.Eshwar
5.P.E.Purushothaman ..Petitioners

Vs

M/s V.N.Ayyadurai, a Firm
rep by its Partner V.N.Ayyadurai. .. Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to the case in S.T.C. No.519 of 2014 on the file of the learned Judicial Magistrate No.1, Erode, quash the same by allowing this quash petition.

For Petitioners : Mr.N.Manokaran

For Respondents : Mr.Udaikumar
for M/s.Karan & Udai

O R D E R

This petition has been filed to call for the records pertaining to the case in S.T.C. No.519 of 2014 on the file of the learned ***Judicial Magistrate (Fast Track Court) No.I**, Erode and quash the same by allowing this quash petition.

2. For the sake of convenience, the petitioners and the respondent are referred to as accused and complainant respectively.

3. Heard the learned counsel for the accused and the learned counsel for the complainant.

4. It is the case of the complainant that the accused issued a cheque for Rs.3,00,000/- and the same was dishonoured when presented by the complainant. The complainant issued a statutory notice and since the accused did not make the payment, has lodged the present complaint in S.T.C.No.519 of 2014 before the ***Judicial Magistrate (Fast Track Court)**

No.I, Erode against five accused, challenging which all the five accused are before this Court.

5. Learned counsel for the petitioners/accused submitted that the accused are ready and willing to give the cheque amount to the complainant, but whereas, the complainant is not receiving the same. In fact, in para 8 of the affidavit sworn to by P.Elango, who is the drawer of the cheque, it is stated as follows:

"8. I submit that we are coming from respectable family, and we never had any intention to deprive the genuine claim of anyone. In fact, the business relationship between me and the respondent has ended in turmoil. Therefore, the respondent has come forward with an exorbitant demand without any justification. I submit that in view of the pendency of the case, we have suffered a lot for the past four years. We are not in a position to concentrate our other business and family commitments. Therefore, in order to give a quietus to the issue, irrespective of the merits and demerits, we are ready to deposit the cheque amount to show our bonafideness in the credit of STC No.519/2014."

6.It is seen that when this matter came up for hearing on 11.09.2015, this Court had passed the following order:-

'There shall be an order of interim stay on condition that the petitioners deposit entire cheque amount to the credit of STC Nos.520 of 2014 and 519 of 2014 respectively on the file of the learned Judicial Magistrate No.1, Erode, within a period of three weeks from today, failing which, the interim stay granted shall stand automatically vacated.'

7.Learned counsel for the petitioners/accused submitted that pursuant to the aforesaid order passed by this Court, the petitioners/accused deposited the amount of Rs.3,00,000/- (Rupees three lakhs only) to the credit of S.T.C.No.519 of 2014 before the learned ***Judicial Magistrate (Fast Track Court) No.I**, Erode.

8.Learned counsel for the respondent / complainant, however, submitted that there are other amounts that are due to the complainant from the accused and any order passed by this Court shall not prejudice such claims. With this caveat, he fairly conceded that the prosecution in respect of the impugned cheque amount alone may be quashed.

9. In the light of the above, as represented by the learned counsel for the petitioners/accused, if the amount has already been deposited, then the respondent / complainant will be entitled to withdraw the same and the prosecution in S.T.C.No.519 of 2014 before the learned ***Judicial Magistrate (Fast Track Court) No.I**, Erode, will stand quashed.. However, if it has not been deposited, this petition to quash the proceedings in S.T.C.No.519 of 2014 on the file of ***Judicial Magistrate (Fast Track Court) No.I, Erode** shall stand dismissed and the proceedings shall go on. It is also made clear that the payment of Rs.3,00,000/- cannot absolve the petitioners/accused from any other subsisting legally enforceable liability to the respondent/complainant, which is, of course, subject to the set off of the deposited amount.

10. With the above direction and observation, this petition is ordered accordingly. Consequently, connected MPs. are closed.

Sd/-

Asst.Registrar (CS VII)

Dated: 8.9.2016

*Corrected as per the order of this court dated 20.10.2016 made in CrI.O.P.No.22984 of 2016

Sd/

Assistant Registrar

Dated: 26.10.2016

/true copy/

Sub Asst. Registrar

To

1. The ***Judicial Magistrate (Fast Track Court) No.I**, Erode.

2. The Public Prosecutor,
High Court, Madras.

+1 cc to M/s.Karan & Uday, advocates,sr.48493

+1 cc to M/s.N.Manokaran,advocate,sr.48541

To be substituted
to the order
already
despatched on
9.9.2016

rk(co)

lrd 9/9

kk 26/10

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