

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP No.16018 of 2016

and Crl.M.P.Nos.7816 and 7817 of 2016

Jayagopal Lakshmidharan .. Petitioner

-vs-

E.Velu ... Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records of the proceedings in C.C.No.1598 of 2016 on the file of XVII Metropolitan Magistrate, Saidapet, Madras and quash the same, as illegal and contrary to law.

For Petitioner : Mr.Govind Chandrasekhar

For Respondents : M/s.Sangeetha Rajkumar

O R D E R

This Criminal Original Petition has been filed seeking a direction to call for the records in C.C. No.1598 of 2016 on the file of the XVII Metropolitan Magistrate Court at Saidapet, Chennai insofar as the Petitioner / Accused 7 is concerned and to quash the same.

2.Heard Mr. Govind Chandrasekhar, learned counsel for the petitioner/accused and Ms. Sangeetha Rajkumar, learned counsel for the respondent/complainant.

3.For the sake of convenience, the parties will be referred to by their name.

4.It is the case of E. Velu (complainant) that C.A.V.Cotton Mills Private Limited (A1) had borrowed Rs. 2 crores in September 2015 and in discharge of the said liability, had

issued four cheques dated 19.01.2016 for Rs.50/-lakhs each, which, when presented by Velu, were dishonoured. Velu issued a statutory notice under Section 138 of the Negotiable Instruments Act, 1881 (for short "the NI Act") on 29.01.2016 and since C.A.V. Cotton Mills Pvt. Ltd.(A1), did not make the payment, he has launched a prosecution in CC No.1598/2016 before the XVII Metropolitan Magistrate Court, Saidapet, Chennai against C.A.V. Cotton Mills Pvt. Ltd. and 8 others, challenging which Jayagopal Lakshmidharan (A7), is before this Court.

5.Mr. Govind Chandrasekhar, learned counsel for the petitioner/accused submitted that the petitioner/accused had resigned from C.A.V. Cotton Mills Pvt. Ltd. way back on 31.03.2014 and in support of that, he produced Form 32.

6.Ms. Sangeetha Rajkumar, learned counsel for Velu/ Complainant submitted that at the time of availing the loan, C.A.V. Cotton Mills Pvt. Limited (A1) had issued the minutes, wherein, the names of the petitioner is shown as active Director and in the teeth of such assertion, it is indeed a disputed question of fact as to whether he had resigned, as alleged by them now.

7.Be that as it may, on a close reading of the complaint filed by Velu, it is seen that the minimum averments that are required to fasten vicarious liability under Section 141 of the NI Act are absent. In the absence of even the minimum averments, I am afraid that this prosecution against the petitioner cannot be maintained.

8.In the result, this Criminal Original Petition is allowed and the proceedings against the petitioner in C.C. No.1598 of 2016 on the file of the XVII Metropolitan Magistrate Court, Saidapet, Chennai is hereby quashed. Connected Crl.M.Ps. are closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

sra

To

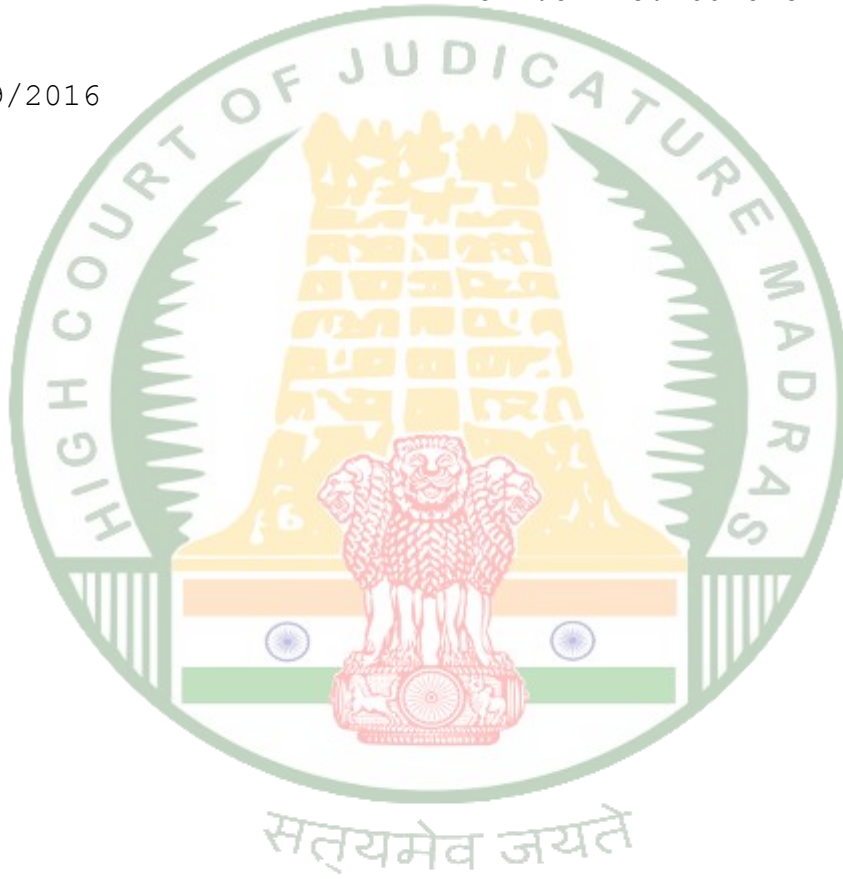
1. The XVII Metropolitan Magistrate,
Saidapet, Chennai.

2. The Public Prosecutor,
High Court, Madras.

+1 CC to Mr. J.J.R. Edwin, Advocate, Sr.No.48427

CrI.OP No.16018 of 2016

KGK (CO)
MD : 21/09/2016



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