

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2016

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

CrI.O.P.No.2633 of 2010

and
M.P.No.1 of 2010

Mrs.B.Sumathi Petitioner/A3

Vs.

1.M/s. Manoj Prakashan,
rep. by its partner
Mr. Vijay Sharma,
Thiru Complex, II Floor,
44, Pantheon Road, Egmore,
Chennai - 600 018.

2. M/s.Dhaanush Educationals,
rep. by its Managing Partner,
Mr. V Bhakthavatchalam,
125, N.S.R. Road,
Canara Bank Upstairs,
Saibaba colony,
Coimbatore- 641 011.

3. Mr.V.Bhakthavatchalam Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to call for the records in C.C.No.4632 of 2009 on the file of the learned XIII Metropolitan Magistrate, Egmore, Chennai and quash the same.

For Petitioner : K.Rajasekaran

For Respondent : Mr. M.Arunkumar
for Sampathkumar Associates.
For R1

O R D E R

This petition has been filed to quash the proceeding in C.C.No.4632 of 2009 pending on the file of the learned XIII Metropolitan Magistrate, Egmore, Chennai.

2. The petitioner herein is the third accused in C.C.No.4632 of 2009 on the file of XIII Metropolitan Magistrate Court, Egmore, Chennai. The first respondent is the complainant

in the above criminal case. The said complaint has been filed under Section 138 of Negotiable Instrument Act, against the second respondent/first accused Firm, in which, third respondent/second accused is a Managing Partner. The first respondent/company supplied books to the second respondent/first accused and towards discharging the dues, the third respondent/second accused issued a cheque dated 16.12.2008. When the said cheque was presented, through his banker, the same was returned with an endorsement "exceeds arrangement". Even after the issuance of Statutory Notice to all the accused, the accused had not paid the amount. Hence, he has filed the above complaint.

3. The petitioner herein is a partner of the first respondent firm. According to the first respondent/complainant, the petitioner herein is incharge of the day to day affairs of the firm. Hence, she has committed the offence.

4. The petitioner herein filed the present petition to quash the above criminal complaint on the ground that she is not connected with the affairs of the respondent firm. She is only a sleeping partner and she is not incharge of the day to day affairs of the company. The cheque was issued only by the second accused in the capacity of the Managing Partner of the first accused. The petitioner is a house wife and she is only a name lender to the petitioner's partnership firm agreement.

5. Heard the learned counsel appearing for the petitioner and the learned counsel for the first respondent and perused the materials placed on record.

6. In a similar complaint filed by the first respondent, petitioner herein already filed a petition to quash the criminal proceedings in C.C.Nos.3662 & 3663 of 2010 and this court passed the following order:-

" 5. It is not in dispute that the alleged cheques issued on behalf of the firm in which the petitioner is also one of the partner. In the above said circumstances, only because of the petitioner being a woman and not involved in the affairs of the firm cannot be discharged. The above said contention is to be decided by the concerned Magistrate after adducing evidence before the Magistrate Court.

6. Therefore, both Criminal Original Petitions are dismissed. The XIII Metropolitan Magistrate at Egmore is directed to dispose of the criminal case within six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed. "

7. Since in a dispute between the same parties in a similar complaint, this Court has already passed the above order. Hence, I am inclined to follow the above order passed by this Court and no different order could be passed in this petition.

8. However, liberty is given to the petitioner to raise all her contentions before the concerned XIII Metropolitan Magistrate, Egmore Magistrate, and the learned Magistrate is directed to dispose of the C.C.No,4632 of 2009 within six months from the date of receipt of a copy of this order in accordance with law.

9. With the above direction, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To

1. XIII Metropolitan Magistrate,
Egmore, Chennai.
2. -do- Thro' The chief Metropolitan Magistrate, Egmore,
Chennai.
3. The Public Prosecutor,
Madras.

Copy to:
The Section Officer,
Criminal Section, High Court, madras.

+1 cc to mr.K.Rajasekaran Associates, sr.40809.

sv(co)
krd 15/9

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