

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2016

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. No.9745 of 2016 & Crl.M.P. Nos.5055 & 5056 of 2016

Shankar Nathan

Petitioner/4th accused

vs.

Redington (India) Limited
represented by M. Sundarrajan
Senior Legal Executive
SPL Guindy House
95, Mount Road
Guindy, Chennai 600 032

Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records relating to C.C. No.5320 of 2015 pending on the file of the XVIII Metropolitan Magistrate Court, Saidapet, Chennai and quash the same as against the petitioner.

For petitioner Mr. Suchit Anant Palande

For respondent Mr.V.T.Narendiran

ORDER

This Criminal Original Petition is filed to call for the records relating to C.C. No.5320 of 2015, pending on the file of the XVIII Metropolitan Magistrate Court, Saidapet, Chennai and quash the same as against the petitioner.

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

3 Redington India Limited filed a prosecution in Crime No.5320 of 2015 before the XVIII Metropolitan Magistrate Court, Saidapet against 6 accused for an offence under Section 138 of the Negotiable Instruments Act, 1881 (for brevity "the Act") challenging which Shankar Nathan (A4) is before this Court for quashing the prosecution on the ground that he had resigned from Indus Mobile Distribution Private Ltd. (A1) before the cheque in question was issued.

4 It is the case of Redington India Ltd. that Indus Mobile Distribution Private Ltd. (A1) has to pay Rs.5,87,48,172/- towards which they issued a cheque on 20.07.2015, which, when presented, was dishonoured. Redington India Ltd. issued a statutory notice dated 30.07.2015, despite which, the accused did not make payment and therefore, the present complaint has been filed arraying Indus Mobile Distribution Private Ltd. and its Directors, including Shankar Nathan, as accused.

5 Heard Mr. Suchit Anant Palande, learned counsel for Shankar Nathan and Mr. V.T. Narendiran, learned counsel for Redington India Ltd.

6 As stated above, Shankar Nathan (A4) had resigned from Indus Mobile Distribution Private Ltd. and the cheque in question was issued only on 20.07.2015, on which date, he was not a Director in the company. In support of this contention, a copy of Form 12 (which was earlier called as Form 32) has been filed as per which Shankar Nathan has resigned from the company on 05.12.2013, whereas, the said form itself has been presented to the Registrar of Companies only in the year 2014.

7 Mr. Narendran, learned counsel, fairly concedes the above position.

8 Be that as it may, in view of the fact that Shankar Nathan has resigned much earlier to the cheque in question was issued, he cannot be made vicariously liable under Section 141 of the Act.

9 In the result, the prosecution in C.C. No.5320 of 2015 against Shankar Nathan alone is quashed and this petition is allowed. The Trial Court is directed to proceed with the trial and release the other accused on bail under Section 436 Cr.P.C. on getting a bond for Rs.10,000/- each with 2 sureties on the date of their appearance.

10 It may be necessary to state here that unless the accused are released on bail, there cannot be suspension of sentence by the Trial Court under Section 389(3) of the Cr.P.C. The Trial Court is directed to complete the trial within a period of six weeks from the date of receipt of a copy of this order.

-s/d-

Assistant Registrar(CSVI)

True Copy

Sub-Assistant Registrar

To

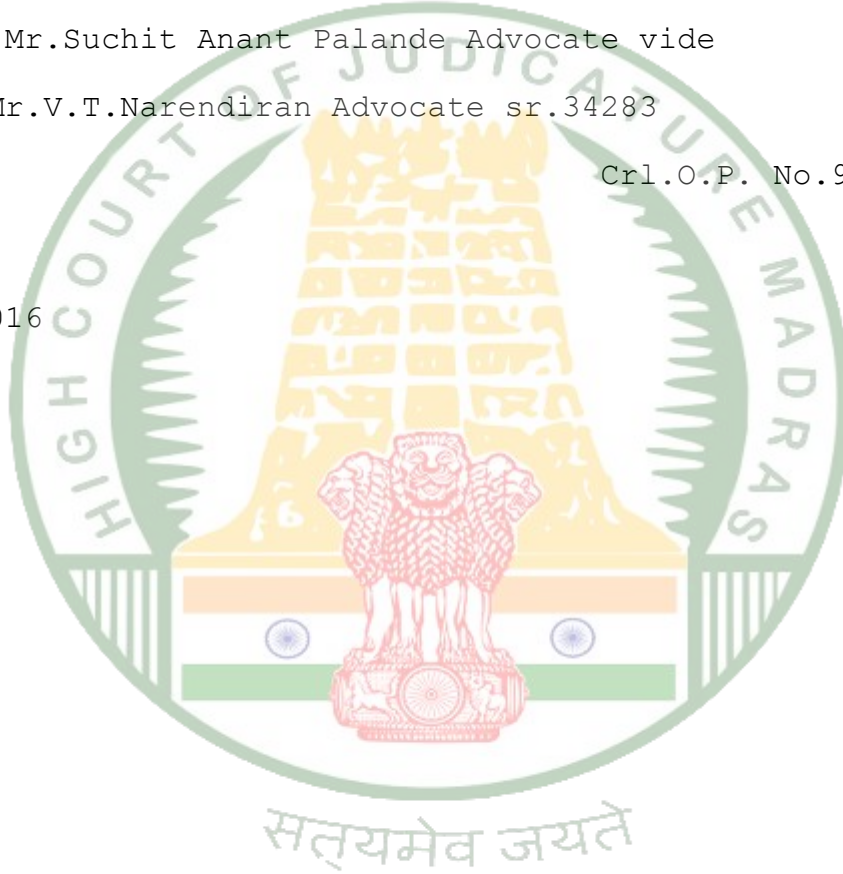
- 1 The XVIII Metropolitan Magistrate Court
Saidapet
Chennai
- 2 -do- The Chief Metropolitan Magistrate,
Egmore, Chennai
- 3 The Public Prosecutor
High Court of Madras
Chennai 600 104

+2 ccs to Mr.Suchit Anant Palande Advocate vide
sr.34263

+1 cc to Mr.V.T.Narendiran Advocate sr.34283

Crl.O.P. No.9745 of 2016

gj(co)
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