

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2017

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Crl.O.P.Nos.3160 to 3162 of 2017
and Crl.M.P.Nos.2298 to 2303 of 2017

1.V.Shenbagavalli
2.K.Suresh

... Petitioners in all the Crl.OPs.

Vs

M/s.Quick Cargo Service India Ltd.,
rep.by its Accountant
T.Renganathan,
2nd Floor, No.29, Hopman 2nd Street,
Alandur,
Chennai.

... Respondent in all the Crl.OPs.

Crl.O.P.No.3160 of 2017 filed under Section 482 of the Criminal Procedure Code, to call for the entire records comprised in C.C.No.3561 of 2016 pending on the file of the learned 18th Metropolitan Magistrate Court at Saidapet, Chennai and quash the same.

Crl.O.P.No.3161 of 2017 filed under Section 482 of the Criminal Procedure Code, to call for the entire records comprised in C.C.No.3562 of 2016 pending on the file of the learned 18th Metropolitan Magistrate Court at Saidapet, Chennai and quash the same.

Crl.O.P.No.3162 of 2017 filed under Section 482 of the Criminal Procedure Code, to call for the entire records comprised in C.C.No.3563 of 2016 pending on the file of the learned 18th Metropolitan Magistrate Court at Saidapet, Chennai and quash the same.

For Petitioners : Mr.Vimal B.Crimson

For Respondent : Mr.D.Sivakumar

COMMON ORDER

The issue is relating to dishonour of cheques. The respondent herein had filed a private complaint against the petitioners before the learned 18th Metropolitan Magistrate Court, Saidapet, Chennai for the offence under Section 138 of the Negotiable Instruments Act. The first petitioner herein is the third accused and the second petitioner herein is the fourth accused in the case in C.C.Nos.3561 to 3563 of 2016 on the file of the 18th Metropolitan Magistrate Court, Saidapet, Chennai.

2.The first petitioner states that she is the wife of the second accused, and a partner in the first accused-firm and that the first accused-firm is doing clearing and forwarding business. The first accused-firm entered into a business agreement with the complainant-company / respondent, and in respect of invoices raised by the respondent, the second accused had issued cheques (4 Nos.) on behalf of the first accused and when the cheques were deposited in the bank, the same were returned for want of sufficient funds. The first petitioner states that she is the wife of the second accused in the case, who is the authorised signatory and in-charge of the day to day affairs of the firm and that she is a silent partner and she is no way connected with the transactions pertaining to the complaints. The second petitioner states that he is the Manager of the first accused-firm and he is only an employee and he was no way connected with the daily affairs of the firm even at the time of the said transactions.

3.Reiterating the above, the learned counsel for the petitioners submit that the proceedings in C.C.Nos.3560 to 3561 of 2016 pending on the file of the Trial Court have to be quashed.

4.When this Criminal Original Petition was taken up on 16.02.2017, this Court permitted the petitioners to issue private notice on the respondent returnable in three weeks. Dispensation of personal appearance of the petitioners was also granted.

5.A counter was filed on behalf of the respondent in which it is stated that the only intention on the part of the accused seems to be to drag on the proceedings by abuse of process of law. In fact, the arbitration proceedings are also initiated by the respondent company against the accused 1 to 3 and another for recovery of the money due from the first accused firm and others, and even in the arbitration proceedings, in spite of the fact that the accused 1 to 3 and another (guarantor) were put on notice, at every stage, even after receipt of the notice sent by

RPAD on all the occasions, the accused 1 to 3 and another co-respondent therein have purposefully, wantonly and knowingly remained ex-parte with an intention to delay, defraud and protract the proceedings. Reiterating the stand taken in the counter, the learned counsel for the respondent prayed for dismissal of these Criminal Original Petitions.

6.This Court heard the submissions made by the learned counsel on either side.

7.It is seen from the records that the entire chief examination as well as the enquiry related to the complaints are over and subsequently, the petitioners had not appeared before the Trial Court. Further, arbitration proceedings are pending against the petitioners. At this point of time, the petitioners have come up with these Criminal Original Petitions, which is nothing but a case of forum shopping. Further, no justifiable reasons have been given by the petitioners to grant the relief as prayed for in these Criminal Original Petitions.

8.For the above reasons, the Criminal Original Petitions deserve to be dismissed and accordingly the same are dismissed, and the interim order passed by this Court on 16.02.2017 and subsequently extended on 09.03.2017 is vacated, and the miscellaneous petitions are closed. It is open to the petitioners to participate in the arbitral proceedings, or to face the trial in C.C.Nos.3561 to 3563 of 2016 pending on the file of the 18th Metropolitan Magistrate Court, Saidapet, Chennai.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

KM

To

1.The 18th Metropolitan Magistrate,
Saidapet, Chennai.

2.-Do- Thro The Chief Metropolitan Magistrate,
Egmore, Chennai.

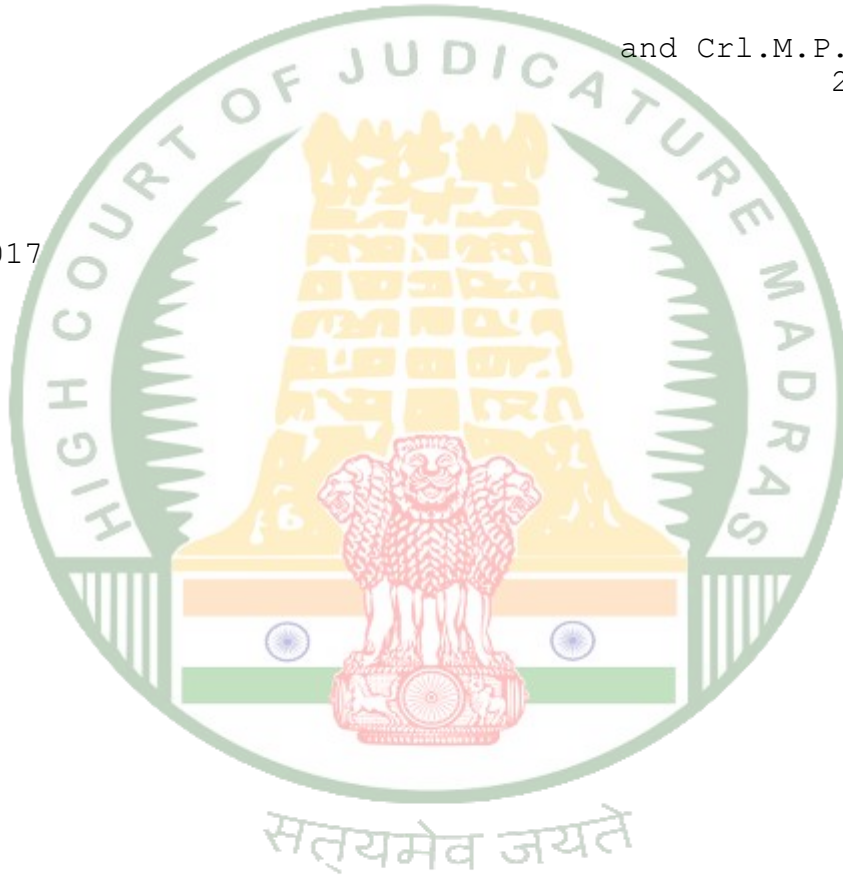
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3.The Public Prosecutor,
Madras High Court,
Chennai-600 104.

+3cc to Mr.D.Shivakumar, Advocate Sr.18946

Crl.O.P.Nos.3160 to 3162
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2303 of 2017

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