

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.03.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

CRL.O.P.No.20992 of 2010
and
M.P.No.1 of 2010

Sri Neeraj Karhade
Director/Authorised Signatory
Polycrest Innovations India Pvt. Ltd.
No.96, Shore Road, Patchogue
New York 11772, U.S.A. ... Petitioner

Vs

A.B.Screens
rep. By its Partner, C.Suresh Kumar
No.12/22, Valipalayam 2nd Street
Tirupur - 641 601
rep. By its Power Agent, R.Gururaj
No.113/6, 2nd Street
Chairman Kandasamy Nagar
Palayakkadu, Tirupur - 1. ... Respondent

PRAYER: Petition filed under Section 482 of the Code of Criminal Procedure to quash the proceedings pending in C.C.No.3216 of 2010 on the file of the Judicial Magistrate I, Tirupur.

For Petitioner : Mr.M.Aravind Subramaniam

For Respondent : No Appearance

ORDER

The petitioner has filed this original petition under Section 482 of the Criminal Procedure Code to quash the proceedings pending in C.C.No.3216 of 2010 on the file of the learned Judicial Magistrate I, Tirupur.

2. The facts in a nutshell are as under: The petitioner is the fourth accused and the respondent is the complainant. It is the grievance of the complainant that the first accused company

had got printed on its hosiery fabrics by the respondent complainant on credit basis vide various bills and in the course of the said business dealing, an outstanding of Rs.7,03,696/- is payable by the first accused to the respondent complainant.

3. It is stated that the first accused company issued two cheques signed by the third accused towards the abovesaid outstanding amount and the respondent complainant had presented the cheques for collection on 11.05.2010 through their bankers. However, the said cheques were returned unpaid with the endorsement "Funds insufficient" on 12.05.2010. It is alleged in the complaint that even though legal notice was sent to the fourth accused, the petitioner herein, no reply was received and, hence, the complaint has been filed.

4. In such backdrop, the present criminal original petition is filed for the relief stated supra.

5. The learned counsel appearing on behalf of the petitioner submitted that the petitioner is only a sleeping director and does not take part in the day to day affairs of the first accused company and, that apart, he is a citizen of the United State of America and a permanent resident of that country and in fact he is not a signatory to the cheque issued by the first accused company.

6. There is no representation on behalf of the respondent and no counter affidavit has been filed till date.

7. I heard Mr.M.Aravind Subramaniam, learned counsel for the petitioner and perused the documents available on record. No representation on behalf of the respondent.

8. After hearing the learned counsel for the petitioner, this Court is of the firm view that filing of this complaint is nothing but abuse of process of law, as the following aspects are not in dispute: (i) the cheque is signed by the third accused; (ii) the petitioner is not signatory to the cheque; and (iii) there is nothing on record to show that the petitioner was managing the affairs of the business or he was concerned with the business in any manner.

9. Before filing the complaint or issuing notice, appropriate care should have been taken by the complainant by verifying the signature of the person and should have complained against the person concerned, who had signed the cheque. There is nothing on record to show that the applicant was in any way connected with the management of day to day affairs of the business of the first accused company or even remotely he was connected with the transaction in question. The transaction has taken place between the complainant and the third accused.

Unfortunately, the learned Magistrate has also issued process in a mechanical manner without verifying the facts properly. Filing of such complaint is, therefore, nothing but abuse process of law. An innocent person cannot be subjected to criminal proceedings when he is not connected with the business in any manner.

10. Considering the aforesaid aspect of the matter, complaint of the complainant is required to be quashed insofar as the petitioner herein is concerned by exercising powers under Section 482 of the Criminal Procedure Code.

In the result, the original petition is allowed and the proceedings pending in C.C.No.3216 of 2010 on the file of the learned Judicial Magistrate I, Tirupur, are quashed insofar as the petitioner herein is concerned. Consequently, connected miscellaneous petition is closed. No costs.

vs

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

The Judicial Magistrate I,
Tirupur.

+lcc to Mr.M.Aravind Subramanian, Advocate SR.NO.16160

sm:2.11.2018

सत्यमेव जयते

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