

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2017

CORAM:

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

Crl.O.P.No.22778 of 2010

and

M.P.No.1 of 2010

Rajkumar T.Menda

.. Petitioner

vs.

Sushil R.Bhatia

... Respondent

Prayer:

Criminal Original Petition is filed under Section 482 of Cr.P.C., to quash the proceedings in S.T.C.No.599 of 2010 pending on the file of the Judicial Magistrate No.3, Salem.

For Petitioner : Mr.K.M.D.Muhilan

For Respondent : No Appearance

JUDGMENT

This instant Criminal Original Petition in Crl.O.P.No.22778 of 2010 is filed by the petitioner herein namely Mr.Rajkumar T.Menda seeking to quash the private complaint in S.T.C.No.599 of 2010 on the file of the learned Judicial Magistrate No.3, Salem.

2.The sum and substance of the Crl.O.P is as follows:

The above summary Trial Case came to be filed under Section 200 Cr.P.C. by the complainant Sushil R.Bhatia as against the 1st accused company / 1st respondent in the complaint and four others including this petitioner arrayed as 3rd respondent in the above complaint by claiming the petitioner and other accused to be the directors of M.S.Presidium Constructions Coimbatore (P) Ltd., the 1st accused company.

3.The above complaint came to be filed in the factual backdrop of dishonor of several cheques issued by the said 1st accused company in the month of June 2009 and subsequent to it.

Therefore the respondent has filed the above complaint for an offence punishable under section 138 of Negotiable Instruments Act as against the construction company and as well arraying the directors namely Suresh Menda, Anu Menda Menda, Divya Khemchand as accused Nos.1 to 5 respectively.

4.It is the case of the petitioner that the learned Magistrate without appreciating the fact that the above complaint does not satisfy the ingredients of sections 138, 141, and 142 of the Negotiable Instruments Act in as much as the petitioner, had taken the complaints on file.

5.It is the petitioner's case that he was neither director of M/S.Presidium Constructions Coimbatore (p) Ltd. nor was in any manner in charge of or responsible for the affairs of M/S.Presidium Constructions Coimbatore (P) Ltd., at the relevant point of time of issuance of Cheque. Accordingly by way of this above Crl.O.P. he seeks this Court to invoke the inherent powers of this court vested under section 482 of Cr.P.C. to quash the above complaint as abuse of process of law.

6.I heard Mr.K.M.D.Muhilan, learned counsel for the petitioner and there is no representation for respondent.

7.The learned counsel for the petitioner would submit that the petitioner was neither a director nor in-charge of any of the affairs of M/S.Presidium Constructions Coimbatore (P) Ltd., accordingly he prays to quash the complaint in so far as the petitioner is concerned.

8.On perusal of records it is seen that the petitioner had ceased to be the Director of the company and the correspondingly Form-32 was submitted on 23.05.2009. It would be further relevant to note here that one Ramesh Krishnan was appointed as director to the above company on 23.05.2009.

9.The fact of resignation and change in composition of Board of Directors in the month of May 2009 of Presidium Construction Coimbatore (P) Ltd is brought to notice of this Court vide form No: 32 dated 23.05.2009 submitted under the Companies Act, 1956.

10.It is also seen that the above changes in composition of directors of the company is notified in line with Section 303(2)

of Companies Act, 1956.

11. Admittedly the cheques are found to be issued in the month of June 2009 and in subsequent months.

12. Thus it is obvious to see that entire transaction projected in the complaint said to have taken place in the month of June 2009 and subsequent to it. Therefore in my considered opinion the petitioner who ceased to be the director of company on 23.05.2009 cannot be held liable for transaction as well towards discharge of any loan or liability.

13. Accordingly, this Court find that the complaint on hand in as much as the petitioner is concerned if allowed to be continue, the same will be nothing but an utter abuse of the process of law.

14. For the foregoing reason, this Court is of the firm opinion that the case on hand is a fit case to exercise its power under Section 482 of Cr.P.C. to prevent the abuse of process of law and secure and end of justice.

15. In the result, the above criminal original petition is allowed and thus the complaint stands quashed in as much as the petitioner alone is concerned. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//
सत्यमेव जयते

Sub Assistant Registrar

vs
To
The Judicial Magistrate No.III,
Salem.

+1cc to M/S.Satish Parasaran, Advocate, S.R.No.21888

Cr1.O.P.No.22778 of 2010 and
M.P.No.1 of 2010

CS/30/10/2018