IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.03.2017

CORAM

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

CRL.O.P.No.24356 of 2010
and
M.P.No.1 of 2010

A.Kodeesvaran
Managing Director
Madras Vanaspathi Ltd.
No.30A, Rahim Layout
K.K.Road, Villupuram. .. Petitioner

Vs

A.Rajaraman .. Respondent

PRAYER: Petition under Section 482 of the Code of Criminal Procedure to quash the proceedings pertaining to C.C.No.3903 of 2010 on the file of the XV Metropolitan Magistrate Court, George Town, Chennai.

For Petitioner : Mr.N.Suresh
For Respondent : No Appearance

ORDER

The petitioner has filed this original petition under Section 482 of the Criminal Procedure Code to quash the proceedings pertaining to C.C.No.3903 of 2010 on the file of the XV Metropolitan Magistrate Court, George Town, Chennai.

2. The facts in a nutshell are as under: The petitioner is the accused and the respondent is the complainant. The petitioner is the Managing Director of Madras Vanaspathi Ltd. and respondent and his father were holding shares in the said company. The respondent approached the petitioner for selling his shares and on 19.10.2009, the petitioner had purchased the shares held by the respondent and issued a cheque for Rs.7,30,524/-. However, respondent expressed apprehension that there may be deduction on account of commission for encashment of cheque and if cash is deposited, the same would be profitable to the respondent and for this purpose, the respondent also gave his bank account particulars to the petitioner.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

3. According to the petitioner, on the very next day, i.e., on 20.10.2009, the petitioner transferred amount of Rs.7,30,496/- to the account of the respondent through RTGS after deducting commission of Rs.28/-. However, the respondent had not returned the cheque in spite of repeated demands made by the petitioner and one such demand was made vide letter dated 20.10.2009. However, the said letter did not evoke any response from the respondent. It is stated that on 20.10.2009, the petitioner sent a communication to the bank to stop payment in respect of the said cheque issued to the respondent.

4. It is averred that respondent had presented the cheque on 2.3.2010 and the same was returned by the banker on 4.3.2010 and the petitioner came to know the said fact only from the demand letter dated 9.3.2010 sent by the respondent. However, the respondent filed a complaint on 5.5.2010 and the learned Magistrate took cognizance of the same and issued process.

5. In such backdrop, the present criminal original petition is filed.

6. The learned counsel appearing on behalf of the petitioner contended that inasmuch as the petitioner had paid the sum of Rs.7,30,524/- vide RTGS on 20.10.2009 itself, there is no debt or liability to be paid by the petitioner to the respondent and, therefore, the respondent ought not to have present the cheque on 2.3.2010.

7. The learned counsel further contended that the respondent ought to have filed the complaint on or before 24.4.2010 and in the case on hand, inasmuch as the complaint has been filed on 5.5.2010, it is barred by limitation and the same cannot be acted upon.

8. The learned counsel for the petitioner also contended that the respondent had suppressed the legal notice issued by the petitioner on 13.3.2010 with an ulterior motive and did not approach the Court with clean hands.

9. I heard Mr.N.Suresh, learned counsel for the petitioner. There is no representation on behalf of the respondent. There respondent had also not chosen to file any counter affidavit till date. It is to be noted that this Court way back in the year 2010 granted an order of interim stay and the same extended from time to time periodically and till date the respondent had not taken any steps to vacate the interim order.

10. A bare perusal of Form 7B appended at page (1) of the typed set of papers shows that the consideration for transfer of shares was Rs.7,30,524/-. No document has been produced by the respondent to show that the total value of the share is

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

Rs.19,48,064/-. That apart, page (13) of the typed set of papers shows that an amount of Rs.7,30,496/- had been paid by the petitioner through RTGS to the respondent and the same had been deposited in his account. The said factum is also not disputed by the respondent. It is not known as to how transfer of shares can be effected without showing the actual value of the shares in Form 7B. The value contained in Form 7B had been duly paid by the petitioner and the same is evident from the RTGS deposit made to the account of the respondent, which is also not disputed.

11. It is seen from the records that after paying the amount of Rs.7,30,496/- through RTGS, the petitioner had sent communication to the respondent on 20.10.2009 under certificate of posting to return back the cheque. However, the respondent complainant even after receipt of the said communication remained a silent spectator and did not raise any objection to the said communication. This clearly shows that the respondent has not come with clean hands.

12. For the foregoing reasons, the criminal original petition is allowed and the proceedings in C.C.No.3903 of 2010 on the file of the learned XV Metropolitan Magistrate Court, George Town, Chennai, are quashed. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

vs
To

The XV Metropolitan Magistrate,
George Town,
Chennai.

+1 CC to Mr.N.Suresh, Advocate sr 16605.

CRL.O.P.No.24356 of 2010 and
M.P.No.1 of 2010

KAN(CO)
SP(03/12/2018)

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/