

IN THE HIGH COURT OF JUDICATURE AT MADRAS

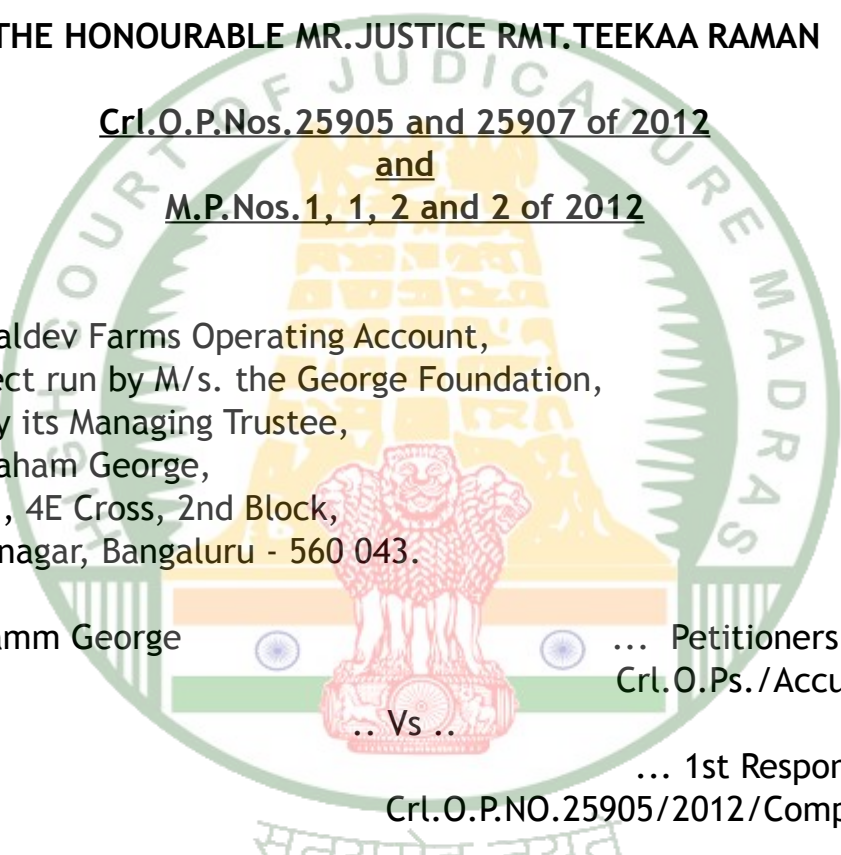
(Reserved on : 16.08.2017)

(Pronounced on : 13.12.2017)

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.O.P.Nos.25905 and 25907 of 2012andM.P.Nos.1, 1, 2 and 2 of 2012

- 
1. M/s. Baldev Farms Operating Account,
A Project run by M/s. the George Foundation,
Rep. by its Managing Trustee,
Mr.Abraham George,
No.401, 4E Cross, 2nd Block,
Kalyannagar, Bangaluru - 560 043.
2. Abrahamm George ... Petitioners in both
Crl.O.Ps./Accused 1-2
- .. Vs ..
- M.Durai ... 1st Respondent in
Crl.O.P.NO.25905/2012/Complainant
- A.Murugan ... 1st Respondent in
Crl.O.P.NO.25907/2012/Complainant
- Jude Devadas ... 2nd Respondent in both
Crl.O.Ps./4th Accused

Prayer in both Crl.O.Ps.: Criminal Original Petitions filed under Section 482 of Cr.P.C., to call for the records pertaining to the proceedings in C.C.Nos.58 and 59 of 2011 respectively on the file of the learned Fast Track Judge, Dharmapuri, and quash the same.

In both Crl.O.Ps.

For Petitioners : Mr.P.Kumaresan
For R-1 : Mr.R.Selvakumar
For R-2 : No Appearance

- - - - -

COMMON ORDER

The petitioners, who are accused Nos.1 and 2, have filed both the criminal original petitions under Section 482 of Cr.P.C., seeking to quash the proceedings in C.C.Nos.58 and 59 of 2011 respectively on the file of the Fast Track Court, (Magistrate Level), Dharmapuri.

2. Learned counsel appearing for the petitioners in both the petitions would contend that the first petitioner/first accused is a Charitable Trust established in the year 1995 in Bangalore as a not - for - profit organization under the Indian Trust Act. The object of the Trust is to work towards poverty eradication in India, and the Trust embarked on several projects and the first accused M/s.Baldev Farms was a banana and vegetable project run by the Trust and due to various administrative reasons, the project was closed in the year 2008. Till such time, the second respondent herein, who was arrayed as fourth accused, was in-charge and the bank account of the first

accused was closed in the year 2008 and the services of the second respondent herein was terminated vide letter dated 19.09.2008 which was duly accepted by the second respondent herein. When that being the case, the private complaint has been filed before the learned Judicial Magistrate, Fast Track Court, Dharmapuri, as if the cheque has been issued on 24.06.2011 for a sum of Rs.10,00,000/-, which was said to have been borrowed by the second respondent as a hand loan. Further, no statutory notice as contemplated under the provisions of the Negotiable Instruments Act has been served upon the first accused-Trust. The learned counsel appearing for the petitioners further contended that the second respondent/second accused is the Managing Trustee of the first accused and he is a non resident in India leaving abroad and he has been unnecessarily dragged on for the simple reason that he is maintaining the day-to-day affairs of the first accused-Trust and hence, sought for quashment.

WEB COPY

3. Learned counsel appearing for the first respondent in both the cases would contend that the question as to whether the account of the first accused has been closed or not and whether the second accused has a permanent resident or not is a matter for trial and

<http://www.judis.nic.in> hence, prayed for dismissal of the petition.

4. After hearing the learned counsel on either side and after perusing the documents filed on behalf of the revision petitioners in both the cases, it appears that the first petitioner-Trust is running from Bangalore and the second respondent is NRI. When that being the case, it is not known how the complainant/first respondent has made an averment that the second respondent is effective control of the day-to-day affairs of the first accused herein. Besides, from the statement of accounts furnished, the learned counsel for the revision petitioners has categorically submitted that the first respondent herein/complainant is totally stranger to the first accused. After going through the records, this Court has entertained a doubt as to the cheque issued to the accused and hence, this Court called for the original records from the trial Court. The learned Judicial Magistrate, Fast Track Court, Dharmapuri, in his letter dated 11.07.2017 in D.No.782/2017, has stated that pursuant to the judgment delivered by the Supreme Court in *Dashrath Rupsingh Rathod Vs. State of Maharashtra and another* reported in **[(2014) 9 SCC 129]**, his predecessor ordered to return both the cases in C.C.Nos.58 and 59 of 2011 and the complainant has received the entire bundle. But not yet

5. It is to be stated that the the private complaint was taken cognizance by the trial Court in the year 2011 and the criminal original petitions were filed in the year 2012 and all the original papers along with the complaint was returned by the Court and the same were received by the first respondent herein/complainant as early as on 31.12.2014 which was not yet resubmitted and as an date, there is no complaint pending before the learned Judicial Magistrate, Dharmapuri, and hence, this Court is of the considered view that in the absence of any proceedings pending before the Court, the criminal original petitions were to be treated as closed.

6. In the result, both the criminal original petitions are closed. Consequently, the connected miscellaneous petitions are also closed.

WEB COPY

13.12.2017

Index : Yes / No

Internet : Yes

Jrl

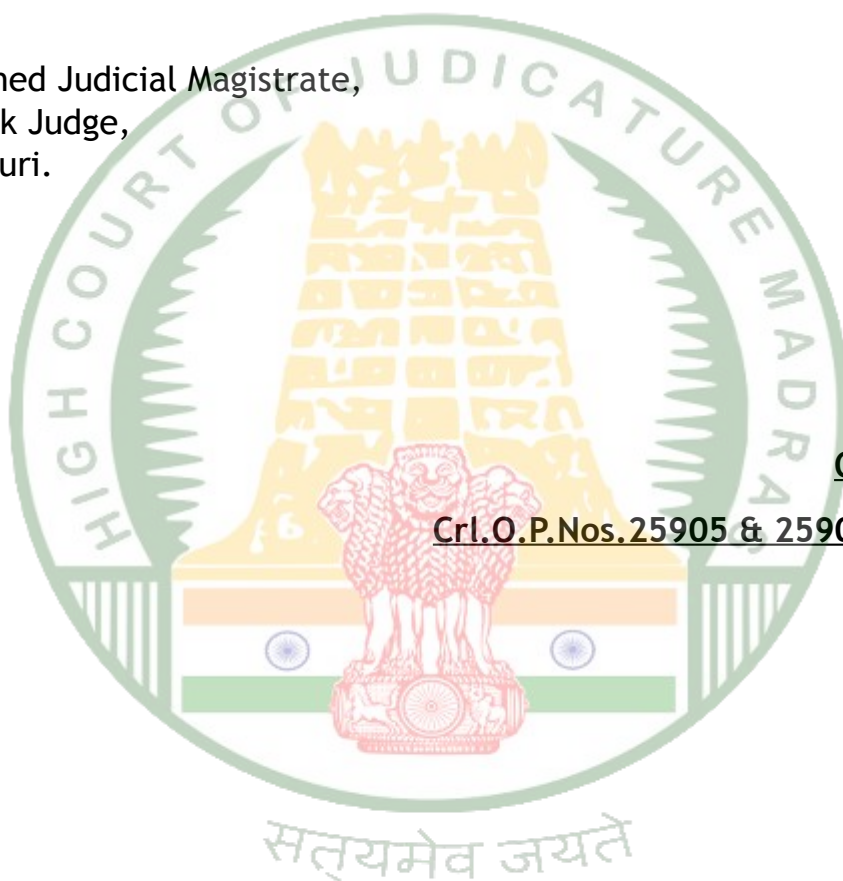
Note:- Issue order copy on 22.12.2017

RMT.TEEKAA RAMAN, J.

Jrl

To

The learned Judicial Magistrate,
Fast Track Judge,
Dharmapuri.



Order in
Crl.O.P.Nos.25905 & 25907/2012

WEB COPY

13.12.2017