



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. (MD)No.3112 of 2017

and

Crl.M.P. (MD)Nos.2373 and 2374 of 2017

1.M/s.Kaizer Trade Ventures,
Rep. by its Managing Partner,
Chellappan

2.The Signatory Authority & Partner,
M/s.Kaizer Trade Ventures,
Rep. by its Partner,
C.Saravanan

: Petitioners

Vs.

M/s.Sutha Enterprises,
Rep. by its Managing Partner,
M.Viyamoorthy

: Respondent

Prayer : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure praying to call for the records pertaining to the case in S.T.C.No.12 of 2016 on the file of the learned Judicial Magistrate, Lalgudi and quash the same.

For Petitioners : Mr.S.Ramasamy

O R D E R

For the sake of convenience, the parties will be referred to as complainant and accused.

2. The complainant has initiated a prosecution before the learned Judicial Magistrate, Lalgudi, in S.T.C.No.12 of 2016 against the accused under Sections 142 and 138 of the Negotiable Instruments Act, challenging which, the accused are before this Court.

3. Heard Mr.S.Ramasamy, learned counsel for the accused.

4. It is the case of the complainant that the accused are liable to pay Rs.25,99,556/- to the complainant, for which, the accused had given four cheques, which have been executed for and on behalf of M/s.Kaizer Trade Ventures by the third accused



Saravanan. The complainant presented the four cheques and the same were dishonoured. After issuing the statutory notice, the complainant has lodged the present complaint against the accused.

5. Mr.S.Ramasamy, learned counsel for the accused contended that for four cheques, a single prosecution is not maintainable under Section 219 of the Code of Criminal Procedure. In support of his contention, he placed strong reliance on the judgment of this Court in **M/s.Printo Stick v. M.L.Oswal [1997 Cri.L.J.2122]**. He also contended that there is no valid debt in this case, because, the agreement for supply of goods was entered on 23.06.2014 for a period of one year and the agreement expired on 23.06.2015, but, the cheques were issued after 23.06.2015.

6. This Court gave its anxious consideration to the submissions of the learned counsel for the accused.

7. Just because the agreement had expired, the civil liability cannot be extinguished. Therefore, the contention of the learned counsel for the accused that the issuance of cheque after 23.06.2015 is invalid cannot be accepted.

8. As regards the prosecution for four cheques, Section 219 of the Code of Criminal Procedure will not apply, as per the judgment of this Court in **Manjula v. Colgate Palmolive (India) Limited** reported in **2006(5) CTC 303**.

9. In the result, this Criminal Original Petition is dismissed.

10. At this juncture, the learned counsel appearing for the accused sought leave of this Court to dispense with the personal appearance of Chellappan.

11. Accepting the submission, this Court directs Chellappan to appear before the Trial Court and on his appearance, he shall be released on bail under Section 436 of the Code of Criminal Procedure on he executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) without sureties to the satisfaction of the learned Judicial Magistrate, Lalgudi and, thereafter, he shall engage a counsel on special vakalat and appear before the Trial Court for receiving the final report and other papers under Section 207 Cr.P.C., at the time of framing charges, for questioning under Section 313 Cr.P.C. and on the day of judgment. On all other dates, if he files an application under Section 317 Cr.P.C., undertaking that he will not dispute his identity and that his counsel will cross-examine the prosecution witnesses in his absence without adopting dilatory tactics, the Trial Court may ~~serve as a~~ consider and entertain the same. If he adopts any dilatory tactics, it is open to the Trial Court to insist upon his



presence. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar

WEB COPY

To

The Judicial Magistrate,
Lalgudi.

+1cc to M/s.S.RAMASAMY Advocate in SR. No.15893

SML

JS/SKN.RSK/5/04/2017/3P-3C

Order made in
Cr1.O.P. (MD) No.3112 of 2017
Dated: 20.03.2017