

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

Crl.O.P.Nos.15436 to 15439 of 2011
and
M.P.Nos.1 to 1 of 2011

M.MurugesanPetitioner in all Crl.O.Ps

Vs.

1. R.NatarajRespondent in Crl.O.P.No.15436 of 2011
2. K.ThangavelRespondent in Crl.O.P.No.15437 of 2011
3. Mr.MurugaswamyRespondent in Crl.O.P.No.15438 of 2011
4. M/s.Sri Kavitha Traders
Represented by its Proprietor,
N.Murugesan,
S/o.Natraja Pillai
2/147, Venjamadai, S.V.Mill (P.O)
Udumalaipet (T.K.)Respondent in Crl.O.P.No.15439 of 2011

Common Prayer:

Criminal Original Petitions are filed under Section 482 of the Criminal Procedure Code, praying to call for the records in C.C.Nos.76, 73, 143 and 144 of 2011 respectively on the file of the Judicial Magistrate No.II, Udumalpet and quash the same.

For Petitioner : Mr.N.R.Elango, SC
in all Crl.O.Ps

For Respondents : Mr.Ma.P.Thangavel
in all Crl.O.Ps

COMMON ORDER

These petitions are filed to quash the proceedings in C.C.Nos.76, 73, 143 and 144 of 2011 on the file of the learned Judicial Magistrate, No. II, Udumalpet. The proceedings pending

on the file of the Court below is for the offences punishable under Section 138 of the Negotiable Instruments Act.

2. According to the petitioner, during the process of purchasing a Mill namely Kumarvel Paper Mills Limited, the petitioner had parted with the cheque for a sum of Rs.12 lakhs which was not fructified in view of taking over of the company by Andra Bank for some other liability. When the matter was taken up for hearing, the learned counsel appearing for the petitioner has pointed out that the confirmation affidavit issued by the accused by which the cheque has been issued has not been cited as document in the complaint.

3. The counsel for the complainant had contended that it is a matter for trial and it can be produced before the trial Court in the event of trial. However, the learned counsel has pointed out that the entire transaction is arising out of confirmation affidavit, pursuant to which, the accused had taken over the cheque which has been issued by Kumaravel Paper Mills Limited and issued his cheque in discharge of his liability to the complainant. He has also produced the confirmation affidavit before this Court by way of an additional typed set of papers. The accused had indemnified and taken over the cheques of other persons and has issued the cheques in discharge of certain liabilities to the complainant. Whether the accused has issued the cheque in discharge of the liability or whether the liability has not been fructified in view of taking over of the company by Andra Bank for discharging the accused from liability, are all matters to be decided during the course of trial.

4. In the result, these Criminal Original petitions are disposed of with liberty to the petitioner to raise all these points before the trial Court and the Trial Court is also directed to proceed and complete the trial and dispose of the same in accordance with law within a period of four months from the date of receipt of a copy of this order.

5. Accordingly, the Criminal Original Petitions are disposed of. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

mfa/vum

To

The Judicial Magistrate No.II, Udumalpet.

+1cc to Mr.MA.P.Thangavel, Advocate SR.No.80816

+1cc to Mr.S.Shankar, Advocate SR.No.80814

Crl.O.P.Nos.15436 to 15439 of 2011
and

M.P.Nos.1 to 1 of 2011

RR(CO)
GMY(28/12/2018)



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