

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.12.2018

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRL.O.P.Nos.8841 to 8847 of 2011

and

Crl.M.P.No.1 of 2011 (7 Nos.)

and

Crl.M.P.No.2 of 2011 (7 Nos.)

S.Thangamani

...Petitioner /3<sup>rd</sup> Accused  
in all Crl.OPs

Vs.

1. M/s.S.K.Transports rep.by  
its Proprietor, J.S.R.Prasad,

...1<sup>st</sup> Respondent/Complainant  
in all Crl.OPs

2. M/s.Sri Chenthooran Sodium  
Plant Pvt. Ltd.,  
rep.its Managing Director,

...2<sup>nd</sup> Respondent/1<sup>st</sup> Accused  
in all Crl.OPs

3. M.Revathy

...3<sup>rd</sup> Respondent/2<sup>nd</sup> Accused  
in all Crl.OPs

4. N.Murugesan(since died (given up) ...4<sup>th</sup> Respondent/4<sup>th</sup> Accused  
in all Crl.OPs

Common Prayer: Criminal Original Petition filed under  
Section 482 of Criminal Procedure Code to quash the complaint in  
S.T.R.Nos.1224 to 1230 of 2008 respectively on the file of the  
Judicial Magistrate No.II, Karaikal, against the petitioner on  
such terms and conditions.

For Petitioner : M/s.Ravichandran Sundaresan  
in all Crl.OPs

For R1 : Mr.R.Vasudevan  
for Mr.Susindran

C O M M O N   O R D E R

These petitions are filed by the petitioner /3rd accused as against the proceedings pending on the file of learned Judicial Magistrate II, Karaikal in STR Nos.1224 of 2008 to 1230 of 2008.

2. The first respondent had lodged a complaint against this petitioner and other respondents for the offence punishable under Section 138 of the Negotiable Instrument Act. According to the complaint in the course of business transaction, the first accused is indebted to the complainant for a sum of Rs.2,77,143/- and in discharge of the said liability, the following cheques were issued bearing Cheque Nos. 1) 519103 dated 24.09.2007 for Rs.25,000/-, 2) 519102 dated 25.09.2007 for Rs.25,000/- 3) No.519101 dated 26.09.2007 for Rs.25,000/-; 4) No.519104 dated 27.09.2007 for Rs.25,000/- 5) 519105 dated 28.09.2007 for Rs.27,410/- 6) 23358600 dated 29.09.2007 for a sum of Rs.25,000 and 7) 519122 dated 02.11.2007 for a sum of Rs.1,24,733/- drawn on City Union Bank Ltd., Nagapattinam - 4.

3. Those cheques were presented before the Karur Vysya Bank, Nagapattinam on 05.12.2007, but the same were returned as dishonoured with an endorsement "authorized signatory changed". The second accused one Mrs.Revathi had signed those cheques in the capacity as Managing Director of the first accused Company and the petitioner/third accused is the Chief Executive Officer of the Company.

4. The learned counsel for the petitioner had raised the following grounds for consideration of this Court:-

1. The petitioner is not a signatory to the cheque.
2. The petitioner is not a Director in the accused company as such he is no way connected with the liability of the company.
3. No legal notice as contemplated under Section 138 of the Negotiable Instrument Act, was taken against the petitioner.

5. The learned counsel appearing for the 1<sup>st</sup> respondent / complainant had submitted that the cheques have been issued by the petitioner /3<sup>rd</sup> accused and the petitioner is a Chief Executive of the accused Company, as such he is liable since he is looking after the affairs of the Management and the learned counsel appearing for the complainant had also produced a notice taken to the petitioner on 29.03.2008.

6. On perusal of the notice filed by the 1st respondent / complainant in the typed set of papers, it is stated that the aforesaid cheques were signed by one Mrs.Revathi, the second accused in the complaint, in the capacity as the Managing Director of the Company. This petitioner, being the Chief Executive of the Company, had introduced the complainant to the Company. Even according to the complainant, the petitioner is only an Executive of the first accused Company and not a signatory of the cheques. As a Chief Executive of the company, in the absence of any materials before this Court, the petitioner cannot be held responsible for the liability of the first accused company. Admittedly, the cheques was issued by the 2<sup>nd</sup> accused and there is no material in the complaint as against this petitioner for the offence punishable under Section 138 of the Negotiable Instrument Act and therefore, the complaint as against this petitioner cannot be maintained and it is liable to be quashed.

7. However, it is pointed out by the learned counsel for the respondent that in view of these petitions filed before this Hon'ble Court the complaint as against the other accused in STR.No.1224 to 1230 of 2008 is pending before the trial Court from 2008 onwards.

8. Considering the facts and situations of this case, the complaint as against this petitioner / 3rd accused in STR Nos.1224 to 1230 of 2008 is not sustainable and hereby quashed. So far as the other accused are concerned, considering the nature of offence as well as the age of the proceedings, this Court directs the learned Judicial Magistrate II, Karaikal, to expedite the trial and conclude the same, within a period of three months from the date of receipt of a copy of this order.

9. With the above observations and directions, these criminal original petitions are allowed. Consequently, the connected Miscellaneous Petitions are closed.

rna/gk

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Sd/-  
Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

To

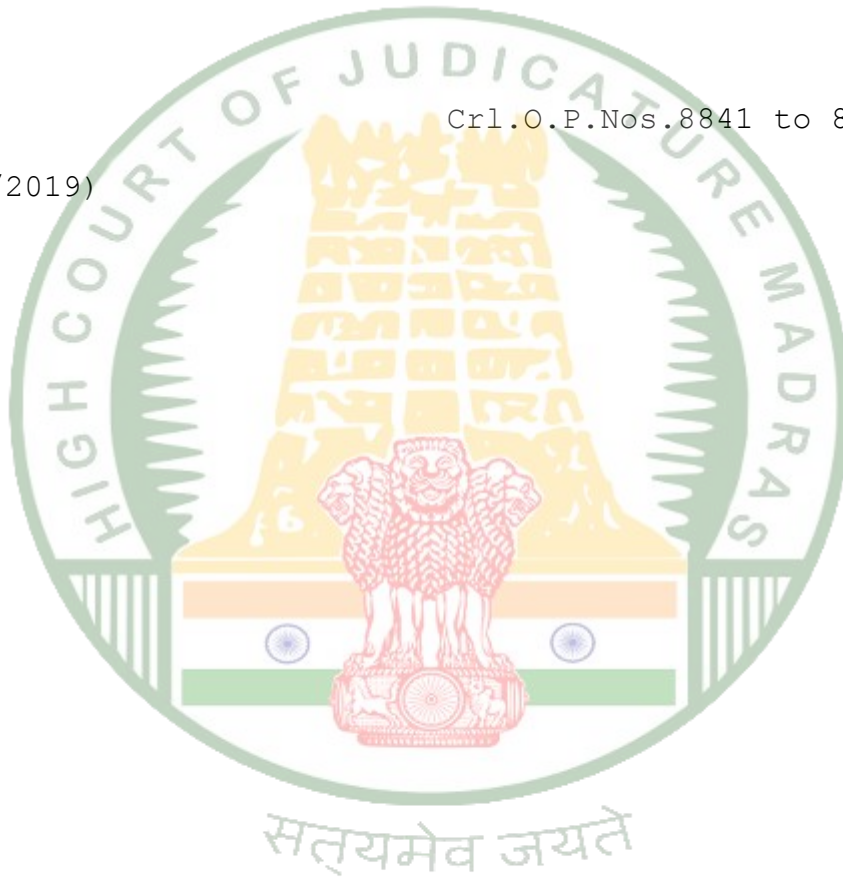
1. The Judicial Magistrate - II,  
Karaikal.

2. -Do- Thro' The Chief Judicial Magistrate,  
Puducherry.

+lcc to Mr.T.Susindran, Advocate, Sr.No.83309

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Kak(21/03/2019)



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