



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 28.09.2018

CORAM
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.27721 of 2010
and
Crl.M.P.No.1 of 2010

R.P.Vishnukumar,
Director of Leo win Fashions Private Ltd.,
No.22, Azad Street,
Khaderpet,
Tirupur.

... Petitioner/Accused No.3

Vs.

M/s.R.S.Knit Compactors,
A Partnership firm rep. by its,
Partner: R.A.Sakthivel,
1/370-B, Radha Nagar,
3rd Street Extension,
Near Kanjampalayam,
Pitchampalayam Post,
Tirupur.

...Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to S.T.C.No.840 of 2010 on the file of the Judicial Magistrate Court No.I, Tirupur and quash the same.

For Petitioner : Mr.M.N.Balakrishnan

For Respondent : No Appearance
(Notice Served & Name Printed)

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O R D E R

This Criminal Original Petition is filed by the petitioner/accused No.3 in S.T.C.No.840 of 2010, which is pending trial before the learned Judicial Magistrate No.I, Tirupur has filed the above quash petition.

2.The respondent is the complainant, who had filed a private complaint against the petitioner and three others for the offences under Sections 138, 141 and 142 of the Negotiable Instruments Act.



3.The case in brief is as follows:

The respondent/complainant is a partnership firm namely M/s.R.S.Knit Compactors, which is a registered partnership firm. The first accused is a limited company namely M/s.Leo Win Fashions Private Limited. The accused Nos.2 to 4 are the Directors of the 1st accused company. The accused company having transactions with the respondent/complainant. The allegation in the complaint is that, they had supplied Hosiery cloth for compacting purpose on credit basis and maintaining true and proper accounts in their regular course of business and as per the accounts a sum of Rs.1,60,102/- (Rupees One lakh Sixty thousand One hundred and two only) is due from the accused. When the payment was demanded, the accused had issued two cheques to the respondent/complainant in discharge of the liability and the details of the cheques are as follows:-

Sl. No.	Cheque No.	Date	Drawn on	Amount
1.	207498	31.08.2009	The Dhanalakshmi Bank Ltd. Tirupur Branch	Rs.1,01,170/-
2.	245034	15.09.2009	The Dhanalakshmi Bank Ltd. Tirupur Branch	Rs.58,932/-

When the respondent/complainant presented the cheques for collection on 25.11.2009 through their bank, ICICI Bank, Tirupur Branch. The cheque was returned "FUNDS INSUFFICIENT" on 26.11.2009. Thereafter, statutory notice dated 28.11.2009 was issued by the respondent/complainant and were received by the accused. Thereafter, despite the receipt of the notice no payment has been made. Hence, the case has been filed by the respondent/complainant.

4.The learned counsel for the petitioner submits that, the petitioner who is the 4th accused in the above complaint has nothing to do with the day to day affairs of the first accused company and further he is not the signatory to the cheque and there is no specific averments as against the petitioner and relied upon the decision of the Hon'ble Apex Court of India in 2007 (1) CTC Page 529 in the case of Saroj Kumar Poddar Vs State (NCT of Delhi).

5.No representation for the respondent, hence, the private notice was ordered, which was served on the respondent on 04.08.2018, despite, receiving the notice the respondent had failed to appear and the respondent's name has been printed in the cause list.



6.Considering the submissions of the petitioner and on perusal of the complaint, it is seen that there is no averments as against the petitioner to be held vicariously liable except for bald allegations, which are not sufficient to rope in a person as an accused in a criminal case.

7.In view of the above, this Court quashed the proceedings as against the petitioner in S.T.C.No.840 of 2010.

8.Accordingly, this Criminal Original Petition stands allowed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

vv2

To

1.The Judicial Magistrate No.I,
Tirupur.

Cr1.O.P.No.27721 of 2010

rrs 22/11/2018