

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2018

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. No.778 of 2018
and Crl.M.P.Nos.255 and 256 of 2018

1. Bellstar Trading Pvt. Ltd.,
Represented through its Directors,
Sh.Amarjeet Singh,
Situated at : A-24/2,
Naraina Industrial Area,
Phase - I,
New Delhi 110 028.
 2. Amarjeet Singh
 3. Harjeet Singh
- ... Petitioners

vs.

Panasonic India Private Limited,
Through its Authorised Representative
Sh.V. Swaminathan,
S/o.Sh.V.Venkataraman,
Assistant Manager Finance & Account,
Panasonic India Pvt. Ltd.,
Situated at:
Godown No.3,
Opposite Yadu Gardens,
New Delhi 110 036.

... Respondent

Criminal Original Petition filed under Section 482, Cr.P.C.
to call for the records relating to the complaint in C.C.No.1575
of 2017 and quash the same pending on the file of IV Fast Track
Court, George Town, Chennai.

For Petitioner .. Mr.P.Prakash Paul
For Respondent .. MR.C.Raghavan

ORDER

This petition has been filed seeking to call for the
records relating to the complaint in C.C.No.1575 of 2017 on the
file of IV Fast Track Court, George Town, Chennai and quash the
same.

2. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.side) for the respondent.

3. For the sake of convenience, the petitioners and the respondent are referred to as accused and complainant respectively.

4. It is the case of the complainant that, they are dealing with the electronic goods and that the first accused was appointed as one of the dealers. The complainant has supplied goods to the accused for over a period of time. As on 31.07.2016, some amounts were due to the complainant by the accused. Hence, the accused issued a cheque dated 20.03.2017 for Rs.34,10,122/-. When the complainant presented the cheque, the same was returned unpaid on the ground of "payment stopped". Hence, the complainant issued a notice dated 10.04.2017, in response to which, the accused had sent a reply notice dated 24.04.2017. Since the accused did not make the payment, the complainant has initiated a prosecution in C.C.No.1575 of 2017 under Section 138 of the Negotiable Instruments Act, 1881 against the accused, which is pending on the file of the IV Fast Track Court, George Town, Chennai, challenging which, the petitioners are before this Court.

5. Heard Mr. Prakash Paul, learned counsel for the accused and Mr. C. Raghavan, learned Government Advocate (Crl. Side) for the complainant.

6. The learned counsel for the accused submitted that there was no amount outstanding from the accused and that is the reason, the accused had issued stop payment of the cheque.

7. In the opinion of this Court, the disputed question of fact cannot be gone into the proceedings, which filed under Section 482 of Cr.P.C.

8. In this case, there are prima facie materials to show that the ingredients of the case are under Section 138 of the Negotiable Instruments Act. Hence, this petition is dismissed with liberty to the petitioners to raise all the points before the trial Court. Consequently, connected miscellaneous petitions are closed.

9. At this juncture, the learned counsel for the accused submitted that the presence of the accused 2 and 3 before the trial Court may be dispensed with.

10. Accepting the said submission, the accused 2 and 3 are directed to surrender before the trial Court within a period of two weeks from the date of receipt of a copy of this order

and execute a bond u/s 88 Cr.P.C for Rs.10,000/- [Rupees ten thousand only] each without sureties. Thereafter, the petitioner shall appear before the trial Court for receiving the complaint, for questioning under Section 251 Cr.PC, at the time of questioning under Section 313 Cr.P.C. and at the time of passing judgment. For the other hearings, the petitioner shall file a petition before the trial Court under Section 317 Cr.PC., giving an undertaking that he will not dispute his identity and that the counsel named by him in the affidavit will cross-examine the prosecution witnesses on the day he is examined-in-chief, as held by the Supreme Court in Vinod Kumar vs. State of Punjab [2015(1) MLJ (Cr1) 288], on such application being filed, the trial Court may liberally consider the same. If the accused adopts any dilatory tactics, it is open to the trial Court to insist upon his presence and remand him to custody as laid down by the Supreme Court in State of Uttar Pradesh vs. Shambhu Nath Singh [JT 2001 (4) SC 319]. If the accused absconds, the trial Court shall direct registration of an FIR against him under Section 229-A IPC.

Sd/-

Deputy Registrar

/true copy/

Sub Asst. Registrar

cla

To

1. The IV Fast Track Court,
George Town,
Chennai.
2. The Public Prosecutor,
High Court, Madras.

+1cc to MR.P.Prakash Paul, Advocate in sr.25817

WEB COPY

Cr1.O.P. No.778 of 2018
Cr1.M.P.Nos.255 and 266 of 2018

CS/28/04/18