

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2018

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.5590 of 2011

and

M.P.No.1 of 2011

T. Sankar,
S/o. Thanga Perumal, ... Petitioners/3rd Accused

Vs.

M/s.Cargo partner Logistic
India Private Limited,
Represented by its power Agent
Ms.N.Subha,
D/o.(Late)N.Pillai,
Branch Office at Door No.1990,
V.Shanmugam Building,
2nd floor, Trichy Road,
Singanallur,
Coimbatore - 641 005 ...Respondent/Complainant

PRAYER: Criminal Original Petition is filed under
Section 482 of the Code of Criminal Procedure, to call
for the records in the proceedings in S.T.C.No.691 of
2010 and quash the complaint as against the petitioner/3rd
Accused, on the file of the Judicial Magistrate Court
No.III, Coimbatore, and pass such other or further
orders.

For Petitioners: No Representation

For Respondent : Not ready in notice

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O R D E R

The petitioner herein, who is the third accused
in STC.No.691of 2010 pending on the file of the Judicial
Magistrate Court No.3, Coimbatore, on a complaint filed
by the respondent/complainant for the offence under
Section 138 of Negotiable Instruments Act.

2.As per the complaint, it is seen that the
respondent/complainant is a company incorporated under
the Companies Act, which is engaged in clearing services.
The first accused is in the business of clearing and
forwarding shipping agent, who had the business

transaction with the complainant and the other accused are its Directors. On the representation of the other accused namely A2 to A4, who are the Directors of the first accused company. The business transactions were carried on, in course of business there was an outstanding balance of a sum of Rs.24,48,472/- (Rupees twenty four lakhs forty eight thousand and four hundred and seventy two only). In discharge of the liability the accused had issued a cheque, which was dishonoured. Hence, the case under Section 138 r/w 142 of the Negotiable Instruments Act has been filed by the petitioner, who is the third accused and the Director of the first accused company.

3.The main contention of the petitioner is that the petitioner is not a signatory to the cheque and he had not taken part in the business transaction of the respondent/complainant company and hence filed the above quash petition.

4.On perusal of the complaint, it is seen that there have been averments to show that the accused is responsible for the day to day activities of the accused company. Hence, the contention of the petitioner is not sustainable. In view of the specific averments against the petitioner under Section 142 of the Negotiable Instruments Act, the petitioner is vicariously liable for the proceedings of the first accused company. The petition filed by the petitioner is not maintainable and hence it is to be dismissed.

5.It is found that the 138 case of the year 2009, for the past nine years, the case cannot be progressed, due to the pendency of the above Criminal Original Petition. In view of the dismissal of the Criminal Original Petition, the Trial Court is directed to complete the trial, within a period of three months from the date of receipt of copy of this order. In the meanwhile, if the case has been transferred to the file of the Fast Track Court, which has been constituted for the speedy disposal of the cases filed under Section 138 of the Negotiable Instruments Act. This case has to be transmitted to the Fast Track Court, without any further delay.

6.Accordingly, the Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed.

Sd/--

Assistant Registrar(CO)

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ah/sbn

Sub Assistant Registrar

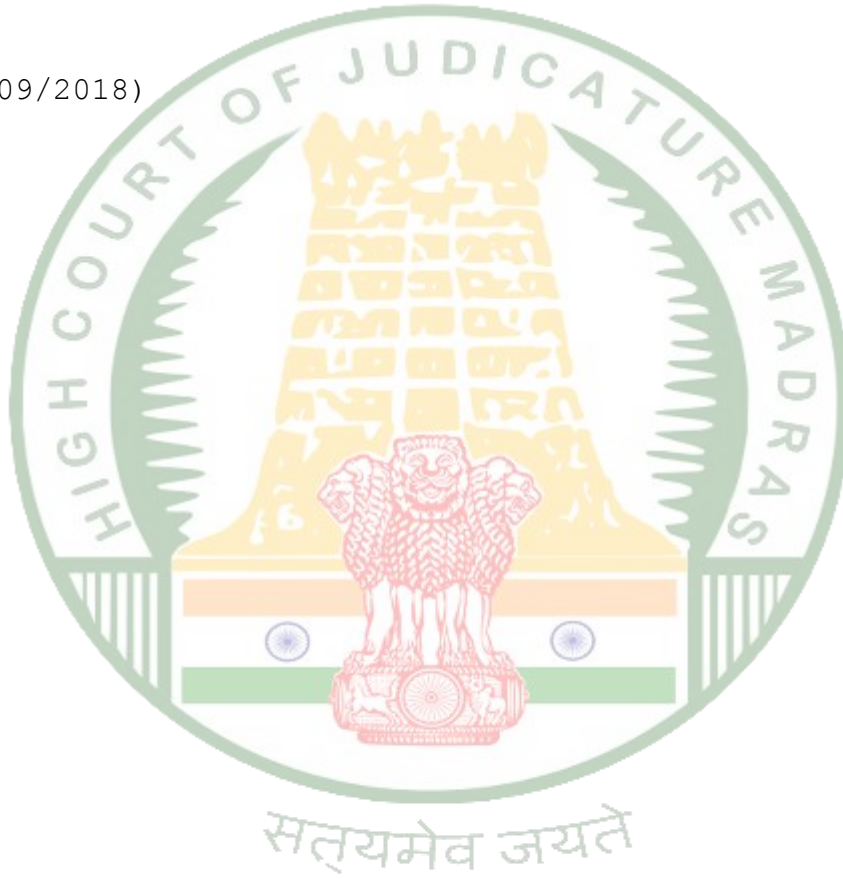
To

1.The Judicial Magistrate No.III,
Coimbatore.

2.The Public Prosecutor,
High Court, Madras.

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VSN II
ASK(10/09/2018)



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