

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.08.2018
PRONOUNCED ON : 28.08.2018

CORAM :

THE HONOURABLE MR.JUSTICE P.N. PRAKASH

Criminal Original Petition No.29033 of 2017
and Crl.M.P.Nos.16390, 16391 of 2017 and 5290 of 2018

1.M/s Spencers Travel Services Ltd.,
Sudharshan Building, 6th Floor
No.27, Whites Road
Royapettah, Chennai 600 014
Rep. by Mrs.Geetha George

2.Geetha George

... Petitioners

Vs.

Shankarlal C.Shah, S/o Chunilal Shah
Karta of M/s Shankarlal C. Shah, HUF
Proprietor SCS Holding
rep. by Dixit R.Jain

... Respondent

Prayer:- Petition filed under Section 482 Cr.P.C., to quash the proceeding in C.C.No.3355 of 2017 filed by the respondent against the petitioners and pending before the IV Metropolitan Magistrate Court (IV Fast Track Court, G.T. Chennai).

For Petitioners : Mr.Shanmugam

For Respondent : Mr.Ralph V.Manohar

O R D E R

This petition has been filed to quash the proceedings in C.C.No.3355 of 2017 filed by the respondent against the petitioners and pending before the IV Metropolitan Magistrate Court (IV Fast Track Court, G.T. Chennai).

2. For the sake of convenience, the petitioners and the respondent will be referred to as the accused and the complainant respectively.

3. It is the case of the complainant that Geetha George [A2] had borrowed a loan in the name of Spencers Travel Services Ltd. for Rs.25 lakhs, which was paid by way of RTGS and cash; a promissory note was executed by the accused; the accused paid Rs.10 lakhs as part payment and issued a cheque for Rs.25 lakhs covering the principal and interest; the complainant presented the cheque for collection on 24.08.2017 and the same was dishonoured on the ground "Drawer a signature authorized to operate account not received"; the complainant issued a legal notice dated 04.09.2017, which was received by the accused on 06.09.2017; since the accused did not repay the amount covered by the cheque, the complainant has filed the present prosecution in C.C.No.3355 of 2017 under Section 138 of the Negotiable Instruments Act, 1881 and the same is pending on the file of the IV Fast Track Court, George Town, Chennai, for quashing which, the accused are before this Court.

4. Heard Mr.Shanmugam, learned counsel for the accused and Mr.Ralph V.Manohar, learned counsel for the complainant.

5. Mr.Shanmugam submitted that the accused had not borrowed any money from the complainant and that one Pramod Chordia of Jineshwar Capital & Groups had obtained blank cheques from the accused for providing financial services and had distributed the blank cheques to various complainants, based on which, prosecutions have been launched against the petitioners/accused by different persons.

6. Per contra, learned counsel for the complainant refuted the contentions.

7. This Court gave its anxious consideration to the rival submissions.

8. On a reading of the complaint, it is seen that the complainant has alleged about loan transaction and has also enclosed the promissory note that is said to have been executed by the accused, along with the complaint. The contention of Mr.Shanmugam that the said Pramod Chordia had acted as a middle man and had collected the cheques from the accused and had distributed the same to various persons, are all disputed questions of fact, which cannot be gone into in a quash application. It is always open to the accused to establish before the trial Court the alleged evil design of Pramod Chordia and establish that there was no privity of contract between the accused and the complainant.

In the result, this petition is dismissed with liberty to the petitioners/accused to raise all the points before the trial Court. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

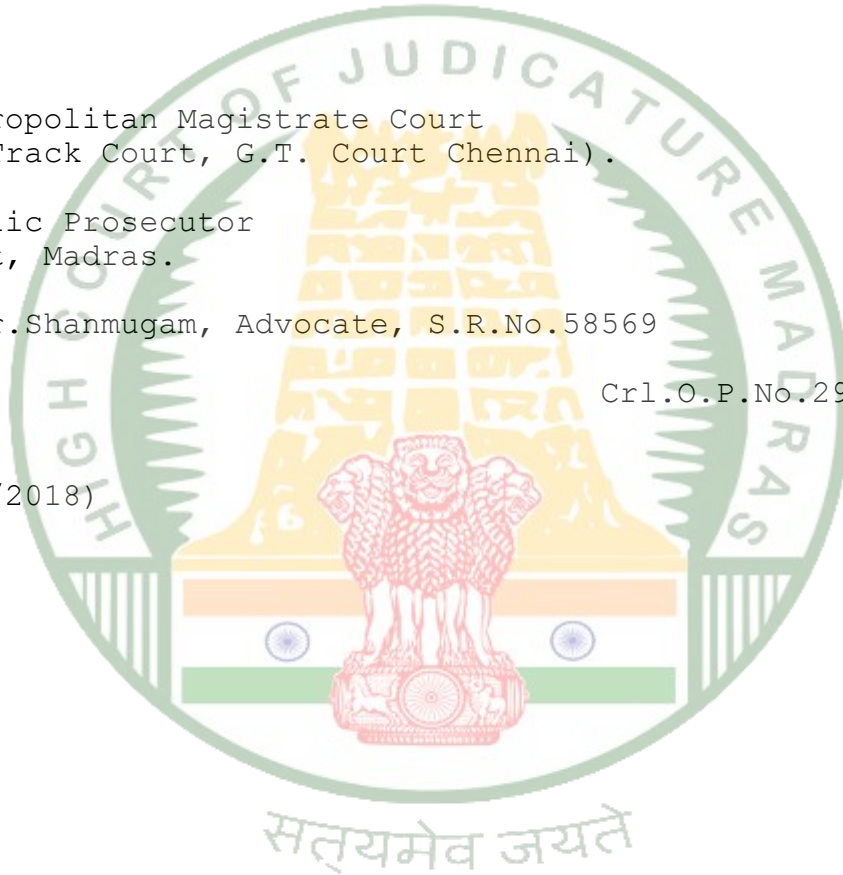
1. IV Metropolitan Magistrate Court
(IV Fast Track Court, G.T. Court Chennai).

2.The Public Prosecutor
High Court, Madras.

+1cc to Mr.Shanmugam, Advocate, S.R.No.58569

CrI.O.P.No.29033 of 2017

AK(CO)
GSP(28/08/2018)



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