

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2018

CORAM

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

CrI.O.P. Nos.15069 & 15070 of 2018

and

CrI.MP.Nos.7602, 7603, 7604 & 7605 of 2018

Rajesh Madan ...Petitioner
(in Cr.OP.No.15069 of 2018)

Rajeev Madan ...Petitioner
(in Cr.OP.No.15070 of 2018)

vs.

M/s.Redington India Limited
Rep. by Mr.M.Sundararajan
Senior Legal Executive
SPL Guindy House, 95, Mount Road,
Guindy, Chennai-600 032. ...Respondent
(in Cr.OP.No.15069 & 15070 of 2018)

Criminal Original Petitions filed under Section 482,
Cr.P.C. to call for the records in C.C.No.6215 of 2017,
pending on the file of the Metropolitan Magistrate Court
No.XVIII, Saidapet, Chennai, quash the same as against the
petitioners.

For petitioner : Mr.N.Kumar Rajan
(in Cr.OP.No.15069 & 15070 of 2018)

For Respondent : Mr.V.T.Narendran
(in Cr.OP.No.15069 & 15070 of 2018)

C O M M O N O R D E R

These Criminal Original Petitions have been filed to call
for the records in C.C.No.6215 of 2017, pending on the file of
the Metropolitan Magistrate Court No.XVIII, Saidapet, Chennai
and quash the same as against the petitioners.

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

3. The complainant has initiated prosecution in
C.C.No.6215 of 2017 under Section 138 of the Negotiable
Instruments Act, 1881, (for short "the NI Act") against
Advanced Laptop Shoppee Pvt., Ltd., (A1) and its two Directors

viz., Rajeev Madan (A2) and Rajesh Madan (A3) and the same is pending on the file of the Metropolitan Magistrate Court No.XVIII, Saidapet, Chennai, for quashing which, Rajeev Madan (A2) and Rajesh Madan (A3) are before this Court.

4. Mr.N.Kumar Rajan, learned counsel for the petitioners/accused submitted that there are no prima facie materials in the complaint to mulct criminal liability on the Directors via Section 141 of the NI Act.

5. Per contra, the learned counsel for the respondent/complainant took this Court to Paragraph Nos.7, 8 and 9 of the complaint and submitted that there are more than prima facie materials for fastening criminal liability with the aid of Section 141 of the NI Act.

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

7. On a perusal of the private complaint, it is seen that the first accused is a juristic person and the complainant has averred that Rajeev Madan (A2) and Rajesh Madan (A3) had directly dealt with the complainant in the transaction in question. As submitted by Mr.V.T.Narendran, learned counsel for the respondent/complainant, the averments in Paragraph Nos. 7, 8 and 9 of the complaint justify issuance of process to Rajeev Madan (A2) and Rajesh Madan (A3) and therefore, the prosecution cannot be quashed at the threshold.

8. In the result, these petitions are dismissed as being devoid of merits. However, Rajeev Madan (A2) and Rajesh Madan (A3) are directed to appear before the trial Court on or before 27.07.2018 and on their appearance, they shall file an application under Section 436 Cr.P.C., before the trial Court. The trial Court shall release them on bail under Section 436 Cr.P.C. on they executing a bond for Rs.10,000/- each with two common sureties. On such release, the presence of Rajesh Madan (A3) before the trial Court is dispensed with. Thereafter, Rajesh Madan (A3) 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, Rajesh Madan (A3) 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 a petition 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. Shamshu 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. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Metropolitan Magistrate,
Saidapet, Chennai.

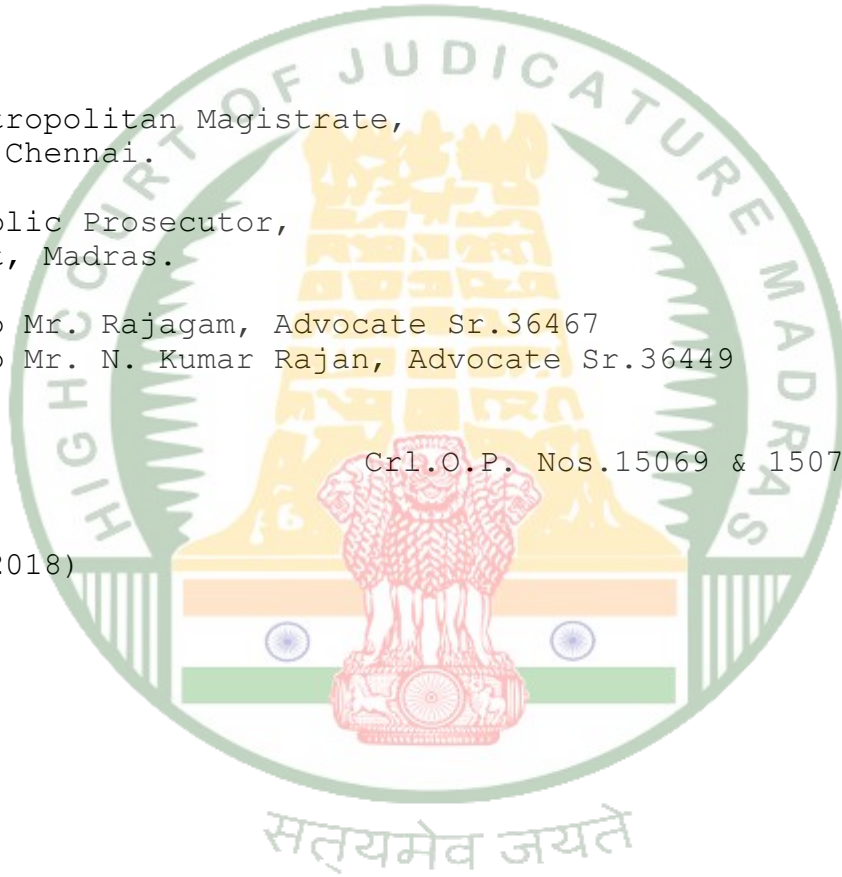
2. The Public Prosecutor,
High Court, Madras.

+ 2 ccs to Mr. Rajagam, Advocate Sr.36467

+ 2 ccs to Mr. N. Kumar Rajan, Advocate Sr.36449

Crl.O.P. Nos.15069 & 15070 of 2018

(CS-VII)
EU(22/06/2018)



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