

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 23.08.2018

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THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.Nos.1924 & 1925 of 2018 &
Crl.M.P.Nos.3047, 3048, 732 to 735 of 2018

C.M.Amara Jeeva .. Petitioner in both Ops/Accused -3

Vs

A.N.Rajendiran .. Respondent in both Ops/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C.,
praying to call for all the records and quash all the
proceedings in C.C.Nos.2074 & 2075 of 2017 on the file of the
learned XIX Metropolitan Magistrate, Corporation Court, Chennai.

For Petitioner : Mr.P.Kumarasan

For Respondents : Mr.S.Sithirai Anandan

O R D E R

These petitions have been filed to call for all the records
and quash the proceedings in C.C.Nos.2074 & 2075 of 2017 on the
file of the XIX Metropolitan Magistrate, Corporation Court,
Chennai.

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

3.It is the case of the complainant that a sum of Rs.60
lakhs was taken as loan by the accused during March 2015 and
towards the said liability, V.P.Foundation Private Limited (A1),
issued a cheque for Rs.60 lakhs signed by Arunachalam (A2)/
Managing Director. This cheque was dishonoured. After issuing
the statutory notice, the complainant has filed the impugned
complaint in C.C.No.2075 of 2015, which is now pending on the
file of the XIX Metropolitan Magistrate, Corporation Court,
Chennai, against V.P.Foundation Private Limited(A1), Arunachalam
(A2) and Amarajeeva(A3) for quashing which, Amarajeeva/A3 is
before this Court.

4.Heard the learned counsel for the petitioner.

5.The learned counsel for the petitioner contended that the impugned cheque was issued from the account of V.P.Foundation Private Limited and the impugned cheque was signed by Arunachalam in the capacity of the Managing Director. As regards Amara Jeeva, the only allegation in the complaint is that he was in full charge of the day-to-day business as well as the other company affairs. Beyond that, there is no other allegation fastening vicarious liability on him.

6.Per contra Mr.Sithirai Anandan, learned counsel for the respondent contended that the complainant has filed two Civil Suits in which he has stated that some of the loan amount was given from the account of Amara Jeeva and therefore, Amara Jeeva cannot claim that he was not aware of the transactions.

7.Refuting his contentions, Mr.P.Kumaresan submitted that photo copies of the sale deeds to show that for the loan amount received by Amara Jeeva from the complainant, he has conveyed the immovable properties in favour of the complainant.

8.This Court cannot go into these disputed questions of fact in a quash application. In Pooja Ravinder Devidasani v. State of Maharashtra & Another in SLP.(Crl) Nos.9133 - 9139 of 2010 dated 17.12.2014, the Supreme Court, after considering all the earlier judgments, has held as follows:-

"20. In other words, the law laid down by this Court is that for making a Director of a Company liable for the offences committed by the Company under Section 141 of the N.I.Act, there must be specific averments against the Director showing as to how and in what manner the Director was responsible for the conduct of the business of the Company."

9. In this case, in para No.4 of the complaint, the complainant stated that the third accused was in full charge of the day-to-day affairs as well as the other company affairs. In paragraph No.6 of the complaint, he has stated that both the second and third accused pleaded time and requested the complainant to present the above cheque bearing No.362565 dated 01.03.2016, again on 19.05.2016 and believing the representation of the second and third accused, the cheque was re-presented. Beyond this, there is no other allegation against the petitioner herein as to how and in what manner, he was responsible for conducting the business of the Company.

10.Under such circumstances, this petition is allowed and the prosecution as against C.M.Amara Jeeva in C.C.Nos.2074 and 2075 of 2017 on the file of the XIX Metropolitan Magistrate,

Corporation Court, Chennai, is hereby quashed and the trial Court shall proceed as against the other accused in accordance with law and complete the trial within six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1.The XIX Metropolitan Magistrate,
Corporation Court,
Chennai.

2.The Chief Metropolitan Magistrate,
Egmore, Chennai.

3.The Public Prosecutor,
High Court, Madras.

+2cc to Mr.S.Sithirai Anandam, Advocate, S.R.No.57553, 57554.

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SJ(CO)

rrs 17/09/2018

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