

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2018

C O R A M

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CrI.O.P.No.24802 of 2016  
and  
CrI.M.P.Nos.11956 & 11957 of 2016

R.Suresh Kumar .... Petitioner/Accused No 6

Vs.

1. Sugandhi Sethuraman  
2. S.K.Sethuraman .... Respondents/Complainants

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C praying to invoke its inherent powers and call for the records to quash the complaint in C.C.No.4926 of 2015 on the file of the 17<sup>th</sup> Metropolitan Magistrate Court, Saidapet in so far as the petitioner is concerned.

For Petitioner : Mr.N.Pragasam

For Respondents : Mr.S.Kumaresan

O R D E R

This criminal original petition has been filed to call for the records and quash the complaint in C.C.No.4926 of 2015 on the file of 17<sup>th</sup> Metropolitan Magistrate Court, Saidapet insofar as the petitioner is concerned.

2.For the sake of convenience, the petitioner and the respondents are referred to as accused and complainant respectively.

3.Helios and Matheson Information Technology Limited (A1) had invited fixed deposit from the general public in the year 2011 - 2012; that the complainant deposited Rs.2,00,000/- with A1 for a period of 24 months, which matured on 07.08.2014; that towards this liability, A1 had issued a cheque dated 31.03.2015 for Rs.2,00,000/-, which, when presented by the complainants was dishonored with remarks "Fund insufficient"; that the

complainant issued a statutory notice dated 25.04.2015 to A1 and on the failure of A1 to repay the amount, the complainant has initiated a prosecution in C.C.No.4926 of 2015 under Section 138 of the Negotiable Instruments Act against the seven accused and the same is pending trial on the file of XVII Metropolitan Magistrate Court, Saidapet, Chennai. Challenging the prosecution in C.C.No.4926 of 2015, A6 has filed the present Criminal Original Petition.

4.The short point that requires to be considered in the quash petition is as to whether A.6 being an advocate by profession and a Non-Executive Director in A1 company at the relevant point of time could be prosecuted with the aid of Section 141 of the Negotiable Instruments Act.

5.Form No.32 clearly shows that A.6 is an independent and Non-Executive Director. Admittedly, A.6 is an advocate by profession.

6.In such view of the matter, following the decision of the Supreme Court in Pooja Ravinder Devidasani vs. State of Maharashtra & another [2014 (16) SCC], proceedings initiated against A.6 in C.C.No.4926 of 2015 is hereby quashed.

The Criminal Original Petition is ordered accordingly. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

cla

To

1. The XVII Metropolitan Magistrate, Saidapet  
Chennai

2 The Public Prosecutor,  
High Court, Madras.

+15 ccs to mr.N.Pragasam Advocate sr 25999

CrI.O.P.No.24802 of 2016  
and

CrI.M.P.Nos.11956 & 11957 of 2016

gp(co)

aa26/04/2018