

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2018

CORAM:

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

Crl.O.P. No.129 of 2017 & Crl.M.P. No.95 of 2017

K. Natarajan

...Petitioner/Accused

vs.

S. Rajeswari

...Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to call for the entire records relating to C.C. No.393 of 2016 on the file of the Court of the Judicial Magistrate No.I, (Fast Track Court), Coimbatore and to quash the same.

For petitioner : Mr. T.P. Manoharan, Sr. Counsel
for Mr. R. Nandhakumar

For respondent : Mr. S. Thangavel

ORDER

This Criminal Original has been preferred seeking to call for the entire records relating to C.C. No.393 of 2016 on the file of the Court of the Judicial Magistrate No.I, (Fast Track Court), Coimbatore and to quash the same.

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

3 The accused is facing a prosecution in C.C. No.393 of 2016 before the Judicial Magistrate No.I (Fast Track Court), Coimbatore, for quashing which, he is before this Court.

4 Heard Mr. T.P. Manoharan, learned Senior Counsel representing Mr. R. Nandhakumar, learned counsel on record for the accused and Mr.S.Thangavel, learned counsel for the complainant.

5 On a perusal of the complaint, it is seen that it has been predicated on the cheque dated 10.07.2014 bearing no.929036 drawn on ICICI Bank Ltd., Pollachi Branch, for Rs.1.50 crores purported to have been issued by the accused. However, on a perusal of the impugned cheque, it is seen that it has been drawn on the account maintained by Balaji Caps and Seals Pvt. Ltd. and the said instrument has been signed by Natarajan, the accused. Be it noted that, in the complaint, Balaji Caps and Seals Pvt. Ltd., has not been arrayed as an accused. The complainant has arrayed only Natarajan as the accused.

6 The issue as to whether for maintaining a prosecution under Section 141 of the Negotiable Instruments Act, 1881, arraigning of a company as an accused, is imperative or not, is no longer res integra in the light of the 3 Judge Bench judgment of the Supreme Court in Aneeta Hada vs. Godfather Travels and Tours Private Ltd. [(2012) 5 SCC 661], wherein, it has been held as under:

"59. In view of our aforesaid analysis, we arrive at the irresistible conclusion that for maintaining the prosecution under Section 141 of the Act, arraigning of a company as an accused is imperative. The other categories of offenders can only be brought in the drag-net on the touchstone of vicarious liability as the same has been stipulated in the provision itself. We say so on the basis of the ratio laid down in C.V. Parekh [(1970) 3 SCC 491 : 1971 SCC (Cri) 97] which is a three-Judge Bench decision. Thus, the view expressed in Sheoratan Agarwal [(1984) 4 SCC 352 : 1984 SCC (Cri) 620] does not correctly lay down the law and, accordingly, is hereby overruled. The decision in Anil Hada [(2000) 1 SCC 1 : 2001 SCC (Cri) 174] is overruled with the qualifier as stated in para 51. The decision in Modi Distillery [(1987) 3 SCC 684 : 1987 SCC (Cri) 632] has to be treated to be restricted to its own facts as has been explained by us hereinabove."

7 In view of the above, the proceedings in C.C. No.393 of 2016 before the Judicial Magistrate No.I (Fast Track Court), Coimbatore, is quashed. However, it is always open to the complainant to work out her remedy against the accused for recovery of any amount due to her, in the manner known to law.

As a sequel, this Criminal Original Petition stands allowed.
Connected Crl.M.P. stands closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

cad
To

1 The Judicial Magistrate No.I
(Fast Track Court)
Coimbatore

2 The Public Prosecutor
High Court of Madras
Chennai 600 104

+1cc to Mr.S.Thangavel, Advocate, S.R.No.69024

+1cc to Mr.R.Nandhakumar, Advocate, S.R.No.69223

Crl.O.P. No.129 of 2017

MR(CO)
GSP(24/10/2018)



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