

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2018

CORAM:

THE HON'BLE MR.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.28645 of 2017
and
Crl.M.P.Nos.16214 & 16215 of 2017

1.Aegan Industries Pvt. Ltd.,
No.280, Bommanallur Village,
Dharapuram - Palani Highway, Dharapuram Taluk,
Tiruppur District - 638 673.
2.Arun Kumar, Managing Director,
Authorized Signatory, Aegan Industries Pvt. Ltd.,
No.715, 10th Main 4th Block, Jayanagar,
Bangalore - 560041Petitioners
vs.

M/s.Suryadev Alloys and Power Pvt. Ltd.,
Rep. by Authorised Signatory Mr.P.K.Prakash,
No.497 & 498, Isana Building, 8th Floor,
P.H.Road, Arumbakkam, Chennai - 600 106. ... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.3361 of 2017 on the file of Metropolitan Magistrate Fast Track Court - IV, GT Chennai quash the proceedings therein.

For Petitioners : Mr.C.S.Dhanasekaran

For Respondent : Ms.Ritta Chandra Sekar
for M/s.Aiyar & Dolia

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O R D E R

This petition has been filed seeking to quash the proceedings in C.C.No.3361 of 2017, pending on the file of the learned Metropolitan Magistrate Fast Track Court-IV, GT Chennai.

2. The Petitioner is facing trial before the Court below for an offence under Section 138 of the Negotiable Instruments Act. The learned counsel for the petitioner would submit that

the cheque which was given as security in the year 2016, has been misused by the respondent. Therefore, there is no existence of any debt or liability on the day when the cheque was said to have been drawn in favour of the respondents.

3. The issue that has been raised by the learned counsel for the petitioner is factual in nature and it can be raised only as defence before the Court below in the pending criminal complaint. This Court cannot go into that issue in exercise of its jurisdiction under Section 482 of Criminal Procedure Code.

4. It is left open to the petitioner to raise all the grounds before the Court below in the course of the proceedings and the Court below shall consider the same on its own merits and in accordance with law. This Court is not inclined to interfere with the proceedings at this stage.

5. The learned counsel for the petitioner requested this Court to dispense with the presence of the petitioner. The presence of the petitioner is dispensed with and he shall be represented by a counsel before the Court below. The petitioner shall appear before the Court for denying the substance of accusation under Section 251 of Criminal Procedure Code and shall be present before the Court below during questioning under Section 311 of Criminal Procedure Code and at the time of passing of the Judgment and the learned counsel representing the petitioner shall cross-examine the witnesses on the same day, they are examined in chief and the petitioner shall not question the identity of any witnesses.

6. Accordingly, the Criminal Original Petition stands disposed of with a direction to the Court below to complete the proceedings within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

सत्यमेव जयते Sd/-

Assistant Registrar

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Sub Assistant Registrar

nmm/dss

To

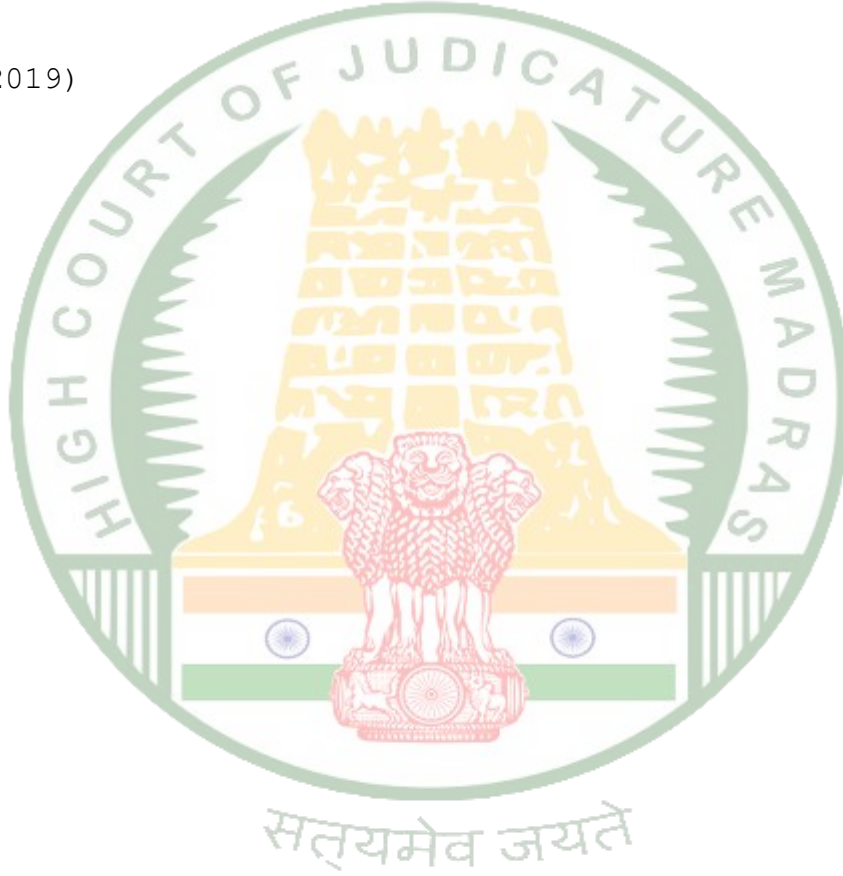
1.The Metropolitan Magistrate Fast Track Court IV,
GT Chennai.

2. do Thro The Chief Judicial Magistrate,
Egmore, Chennai.

+1cc to Mr.C.S.Dhanasekaran, Advocate, S.R.No. 84207
+1cc to Mr.Aiyar and Dolia, Advocate, S.R.No. 84509

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VD(CO)
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