

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 12.11.2018
CORAM
THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH
Crl.O.P.Nos.26113 and 26115 of 2018
and Crl.M.P.Nos.14987 & 14988
and 14992 & 14995 of 2018

1.M/s.Lakshminarasimmar Foundries Pvt. Ltd.,
Rep. by its Managing Director,
Santhosh.

2.Santhosh ... Petitioners in both Crl.O.Ps.

Vs

M/s.Thiurmalayan Enterprises,
Rep. by its Proprietor S.Ramani,
10/4, Chakrapani Road,
Narasingapuram, Guindy,
Chennai - 600 032 ... Respondent in both Crl.O.Ps.

Prayer in Crl.O.P.No26113 of 2018: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records and quash the complaint in C.C.No.151 of 2018 pending on the file of learned Judicial Magistrate, FTC, Alandur.

Prayer in Crl.O.P.No26115 of 2018: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records and quash the complaint in C.C.No.152 of 2018 pending on the file of learned Judicial Magistrate, FTC, Alandur.

For Petitioners : Mr.S.Ramachandran in both the Crl.O.Ps

COMMON ORDER

These Criminal Original Petitions have been filed seeking to quash the proceedings pending before the Court below, initiated by the respondent for an offence under Section 138 of the Negotiable Instruments Act.

2. The learned counsel for the petitioner submitted that the cheque amount claimed by the respondent has already been settled infavour of the respondent and the learned counsel brought to the notice of this Court, the relevant bank entries of Karur Vysya Bank, in order to substantiate the said submission. The learned counsel for the petitioner would further submit that the petitioner had infact sent a reply notice to the respondent, informing the respondent that the

entire cheque amount has already been duly repaid and concealing the same, the respondent has proceeded to deposit the cheque and got the cheque dishonoured.

3. The learned counsel for the petitioner therefore submit that the entire proceedings is an abuse of process of the Court and the petitioner is being unnecessarily made to suffer a criminal complaint for an amount which has already been settled by the petitioner infavour of the respondent.

4. The grounds that has been raised by the petitioner is purely factual in nature. If really the petitioner has already settled the entire amount infavour of the respondent, the same can be easily established before the Court below, since the settlement has happened by way of bank transfer in favour of the respondent in a running account. This Court cannot go into the factual issue at this point of time. It is left open to the petitioner to raise these grounds before the Court below and the Court below is directed to consider the same on its own merits and in accordance with law.

5. The learned counsel for the petitioner would submit that the presence of the petitioner shall be dispensed with before the Court below. In the facts and circumstances of the case, the presence of the petitioner is hereby dispensed with. The petitioner shall be represented by a counsel and the petitioner shall be present before the Court at the time of questioning 313 Cr.P.C and at the time of passing of the judgment. The learned counsel representing the petitioner shall cross-examine the witness on the very same day, they are examined in chief and the petitioner shall not dispute the identity of any witness. The Court below is directed to complete the proceedings within a period of three months from the date of receipt of a copy of this order.

6. With the above directions, these Criminal Original Petitions are disposed of. Consequently, connected Criminal Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

lpp/kmm

To

1. The Judicial Magistrate,
Fast Track Court,
Alandur.

+2cc to Mr.S.Ramachandran, Advocate sr.no.77494

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jp(co)
nr 07/12/2018