



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.10.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.[MD].Nos.7100 to 7103 of 2017
and
Crl.M.P.(MD) Nos.4837 to 4844 of 2017

1.Lakshmi Priya
2.Jayanthi

: Petitioners/Petitioners/
Accused Nos.3&4
in all Crl.O.Ps.,

Vs.

Sri Ramajayam Spintext (P) Limited,
Rajapalayam,
through its
Managing Director,
K.B.Thulasirama Raja
S/o.K.T.Balakrishnama Raja,
D.No.244, Cotton Market,
Rajapalayam,
Virudhunagar District.

: Respondent/Respondent/Complainant in
Crl.O.P.(MD) Nos.7100, 7102 and 7103 of 2017

P.R.Ramasubramanian
The Complainant Represented through
his power of Attorney R.Subramanian

: Respondent in
Crl.O.P.(MD) No.7101 of 2017

COMMON PRAYER : Criminal Original Petitions are filed under Section 482 of Cr.P.C. to call for the records relating to in C.C.Nos.58, 53, 59 and 57 of 2017 on the file of the Judicial Magistrate, Rajapalayam and quash the same.

For Petitioners
in all Crl.O.Ps., : Mr.V.Santhakumaresan
For Respondent
in all Crl.O.Ps., : Mr.P.Athimoola Pandian

COMMON ORDER

These Criminal Original Petitions have been filed to quash the proceedings in C.C.Nos.58, 53, 59 and 57 of 2017 on the file of the Judicial Magistrate, Rajapalayam



2.The petitioners herein have been arrayed as A3 and A4 before the Court below. The respondent in Crl.O.P.(MD) No.7100 of 2018 has filed a complaint under Section 138 of Negotiable Instruments Act, against four accused persons out of which A1 is the company and A2 is the Managing Director, who had signed the cheque. The petitioners, who had arrayed as A3 and A4 have been added in the complaint only on the ground that they are the Directors of the company.

3.The important question raised by the petitioners is that there are absolutely no averments in the complaint with regard to the active role played by these petitioners in the day to day affairs of the company. Further, the only averment that has been made in the complaint is that these petitioners are also Directors of the company and they are involved in day to day affairs of the company. Apart from this, there is no other averment against these petitioners.

4.This Court has gone through the complaint filed by the respondent. In the complaint, except for a general averment made against these petitioners that they are the Directors of the company and are involved in day to day affairs of the company, there are no other particulars to show that these petitioners are actively involved in the running of the company.

5.This case is squarely covered by the judgment of the Hon'ble Supreme Court in the case of **National Small Industries Corporation Limited vs. Harmeet Singh Paintal and another** reported in **2010 3 SCC 330** and in the case of **ALVA Aluminium Limited, Bangkok vs. Gabrial India Limited** reported in **2011 1 SCC 167**.

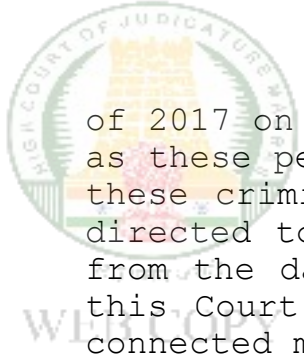
6.In the above judgments, the Hon'ble Supreme Court has categorically held that in the case of Director, the complaint should specifically state as to how and in what manner, the Director was in-charge or responsible for the conduct of the business of the company and mere bald statement that he was in-charge of and responsible for the day to day affairs of the company is not sufficient.

7.The only explanation that has been made by the Hon'ble Supreme Court in the above judgment is, in the case of a Managing Director, Joint Managing Director and Signatory Director where no such averment is required to be made.

8.In view of the above, this Court finds that the continuation of the proceedings against these petitioners will amount to an abuse of process of Court. In the interest of justice, the proceedings before the Court below insofar as these petitioners are concerned is liable to be quashed.

<https://hcservices.ecourts.gov.in/hcservices/>

9.In the result, the proceedings in C.C.Nos.58, 53, 59 and 57



of 2017 on the file of the Judicial Magistrate, Rajapalayam, insofar as these petitioners are concerned are hereby quashed. Accordingly, these criminal original petitions are allowed. The Court below is directed to complete the proceedings within a period of four months from the date of receipt of a copy of this order and report before this Court after completion of the proceedings. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar(CS-III)

To

The Judicial Magistrate,
Rajapalayam,
Virudhunagar District.

MM

TE/SV/SAR-3 : 20/12/2018 : 3P/2C

Cr1.O.P.[MD].Nos.7100 to 7103 of 2017
26.10.2018