



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 22.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.(MD).No.20667 of 2018

and

Crl.M.P.(MD)Nos.9564 and 9565 of 2018

1. M/s.S.D.M.COT SPIN (INDIA) Private Ltd.,
Represented by Dharmamurthy
Managing Director,

2. Dharmamurthy
Managing Director,
M/s.S.D.M.COT SPIN (INDIA) Private Ltd.

... Petitioners/Accused 1& 2

Vs.

1. M/s.Muppandhal Green Energy P.Ltd.,
Represented by its
Power Agent M.R.Nagarajan

... Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Cr.P.C., to call for the records pertaining to the Private Complaint in C.C.No.290 of 2017 pending before the learned Judicial Magistrate Fast Track Court (Magistrate Level), Tuticorin, under section 138 and 142 of Negotiable Instruments Act r/w 200 of Criminal Procedure Code and quash the same.

For Petitioners : Mr.T.Lajapathi Roy

O R D E R

This petition has been filed to quash the proceedings in C.C.No.290 of 2017 pending before the learned Judicial Magistrate, Fast Track Court (Magistrate Level), Tuticorin.

2.Heard learned counsel for the petitioners.

3.In the considered view of this Court, the grounds raised by the petitioners are purely factual in nature. The said grounds can be raised only before the Court below, in the course of proceedings and the Court below shall consider the same on its own merits and in accordance with law.

4.Therefore, there is no merit in this petition. Hence, this Criminal Original Petition is dismissed with a direction to the Court below to complete the proceedings in C.C.No.290 of 2017, as early as possible.



5. At this juncture, the learned Counsel for the petitioners submitted that the presence of the petitioners before the Trial Court may be dispensed with.

6. Accepting the said submission, the presence of the petitioners before the trial Court shall be dispensed with on condition that they shall be present at the time of questioning under Section 313 of Cr.P.C. and at the time of passing judgment.

7. The petitioners are further directed to give an undertaking in the form of affidavit that the Counsel representing them will cross examine the prosecution witnesses on the day they are examined in chief. The petitioners shall not dispute the identity of the witnesses. The petitioner shall appear before the Court in the event their presence is insisted by the trial judge for the purpose of identification. If the petitioners adopts any dilatorical tactics, it is open to the Trial Court to insist for their appearance and deal with the petitioners in accordance with the judgment of Supreme Court of India, **in State of Uttar Pradesh Vs. Shambunath Singh**, reported in **(2001) 4 SCC 667**. Consequently, connected miscellaneous petitions are also closed

Sd/-

Assistant Registrar(AD-I)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1. The Judicial Magistrate,
Fast Track Court
(Magistrate Level),
Tuticorin

2. The Section Officer,
Criminal Section, (2 Copies)
Madurai Bench of Madras High Court,
Madurai.

+1 cc TO Mr.T.Lajapathi Roy, ADVOCATE IN SR NO.96843

ls

MK/KK/SV/SAR 3/31.12.2018/2P/5C

Cr1.O.P. (MD) .No.20667 of 2018

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