

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.13443 of 2013 and  
M.P.Nos.1 & 2 of 2013

1. M/s.K.G.Constructions,  
Rep. By its Partner Mr.Jayapandian,  
No.17, Mohamed Hussain Colony,  
200 Feet Road, Kolathur,  
Chennai-600 099.
  2. Mr.Jayapandian,  
Partner, M/s.K.G.Constructions,  
No.4A, Ayanavaram Road,  
Panneer Selvam Nagar,  
Ayanavaram, Chennai - 600 023.
  3. Mr.C.Banumathy,  
Rep. By its Partner, Mr.Jayapandian,  
No.17, Mohamed Hussain Colony,  
200 Feet Road, Kolathur,  
Chennai-600 099.
- ... Petitioners/Accused
- Vs.
- M/s.Shriram City Union Finance Limited,  
Having office at  
221, Royapettah High Road,  
Mylapore, Chennai-600 004.  
Rep. By Mr.N.Ganesan ... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records to C.C.No.1156 of 2013 on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai, and quash the same.

For Petitioners : Mr.Rajadurai for Mr.C.Prabakaran

For Respondent : Notice Served - No Appearance

ORDER

This criminal original petition has been filed seeking to quash the proceedings in C.C.No.1156 of 2013 on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai.

2 The respondent herein filed a private complaint against the petitioners herein under Section 200 Cr.P.C. for the offence under Section 138 of Negotiable Instruments Act, before the learned XVIII Metropolitan Magistrate, Saidapet, Chennai, in C.C.No.1156 of 2013. Pending the above case, the petitioners have approached this Court seeking to quash the same.

3 Learned counsel appearing for the petitioners would submit that first petitioner is a partnership firm and second and third petitioners are partners and further third petitioner is wife of second petitioner. He would further submit that the third petitioner has not participated in the day today affairs of the firm and the second petitioner alone signed the cheque. Furthermore, they have repaid the entire dues to the respondent. The trial Court, without considering the above fact, has taken cognizance on the complaint filed by the respondent, which has to be quashed.

4 Despite service of notice, none appeared on behalf of the respondent. Heard the learned counsel appearing for the petitioners and perused the materials available on record.

5 It is admitted fact that the first petitioner is partnership firm and second and third petitioners are its partners. The second petitioner issued the disputed cheque in favour of the respondent. The averment made in the complaint reveal that the second and third petitioners are partners of the partnership firm and they have also involved actively with the affairs of the firm. The respondent issued notice to all the petitioners, but, there was no reply. It is seen that in the complaint, there is allegations against all the petitioners, which can be decided only after trial. Therefore, this Court is not inclined to invoke power under Section 482 of Cr.P.C. and quash the case against the petitioners.

6 In the result, the criminal original petition is dismissed. Consequently connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CO)

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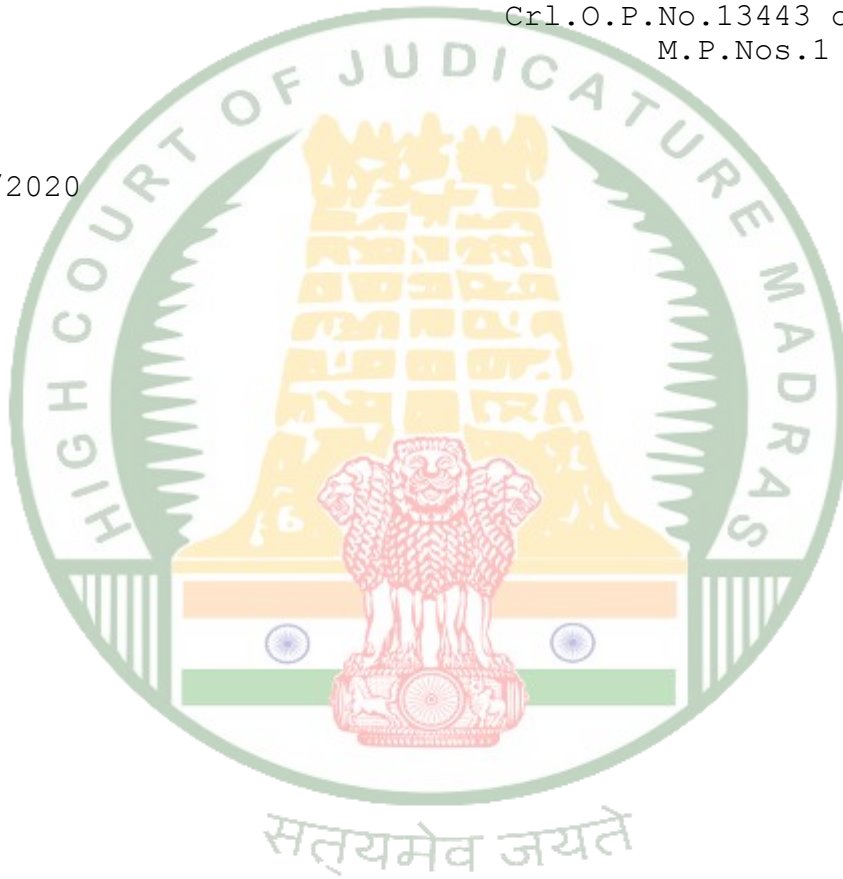
Sub Assistant Registrar

To

1. The XVIII Metropolitan Magistrate,  
Saidapet, Chennai.
2. The Chief Metropolitan Magistrate,  
Egmore, Chennai-8.

Crl.O.P.No.13443 of 2013 and  
M.P.Nos.1 & 2 of 2013

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