

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 28.06.2019
CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.14404 of 2013 and
Crl.M.P.No.1 of 2013

Break Through Technologies (P) Ltd.,
Rep. by its CEO K.Ponrajaguru,
S/o.K.Kumarasamy Nadar,
No.115, Nelson Manickam Road,
Kandhas Chambers, Chennai-29. ... Petitioner

Versus

1.Dhanus Technologies (P) Ltd.,
Rep. by Managing Director,
V.Narayanasamy,
6 B, Mena Kampala Arcade,
No.113/114, Theyagaraya Road,
T.Nagar, Chennai-17.

2.Dhanus Technologies (P) Ltd.,
Rep. by Managing Director,
V.Narayanasamy,
6 B, Mena Kampala Arcade,
No.113/114, Theyagaraya Road,
T.Nagar, Chennai-17.

3.D.S.Srinivasan,
Joint Managing Director,
6 B, Mena Kampala Arcade,
No.113/114, Theyagaraya Road,
T.Nagar, Chennai-17. ... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crl.M.P.No.1904 of 2012 in C.C.No.4000 of 2009 on the file of Fast Track II, Metropolitan Magistrate, Egmore and set aside the same.

For Petitioner : Mr.R.C.Paul Kanagaraaj

ORDER

This Criminal Original Petition has been filed to set aside the order dated 22.04.2013 in Crl.M.P.No.1904 of 2012 in C.C.No.4000 of 2009 on the file of the Fast Track II Metropolitan Magistrate Court, Egmore.

2.The learned counsel for the petitioner would submit that the 2nd and 3rd respondent have negotiated on behalf of the 1st respondent company to take over part of the business from the petitioner. The respondents agreed to pay a sum of Rs.2 crore in instalments, in which they remitted Rs.1,80,00,000/- and for the balance amount of Rs.20 lakh, the respondents issued post dated cheque bearing No.431949 for Rs.17,73,400/-towards the final settlement. He would further submit that on 12.06.2009, a letter was sent by the respondents to the petitioner stating that they were not able to honour the above said cheque and towards replacement for the above cheque, they issued another cheque bearing No.431932 for the said amount.

3.The learned counsel for the petitioner would further submit that when the petitioner was examined in chief, the letter dated 12.06.2009 was not available. The petitioner has filed a petition under Section 311 of Cr.P.C to examine himself further to mark such letter. The Court below dismissed the petition on the ground that the petitioner has come forward with the petition belatedly.

4.The only point raised by the learned counsel for the petitioner is that the respondent might take a defence that the transaction between the petitioner and the respondents had taken much earlier and it was time barred debt, since the original cheque was issued much earlier.

5.Considering the facts and circumstances of this case, this Court is inclined to give opportunity to the petitioner/complainant to mark letter dated 12.06.2009. Accordingly, the order passed by the learned Fast Track II Metropolitan Magistrate, Egmore in Crl.M.P.No.1904 of 2012 in C.C.No.4000 of 2009 dated 22.04.2013 is set aside. The trial Court is directed to fix a date for examination and issue summons to PW1. It is made clear that if the petitioner fails to appear before the trial Court on the date fixed it, the learned Fast Track II

Metropolitan Magistrate, Egmore shall proceed further with the trial in accordance with law.

6. With the above directions, this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Co)

//True Copy//

Sub Assistant Registrar

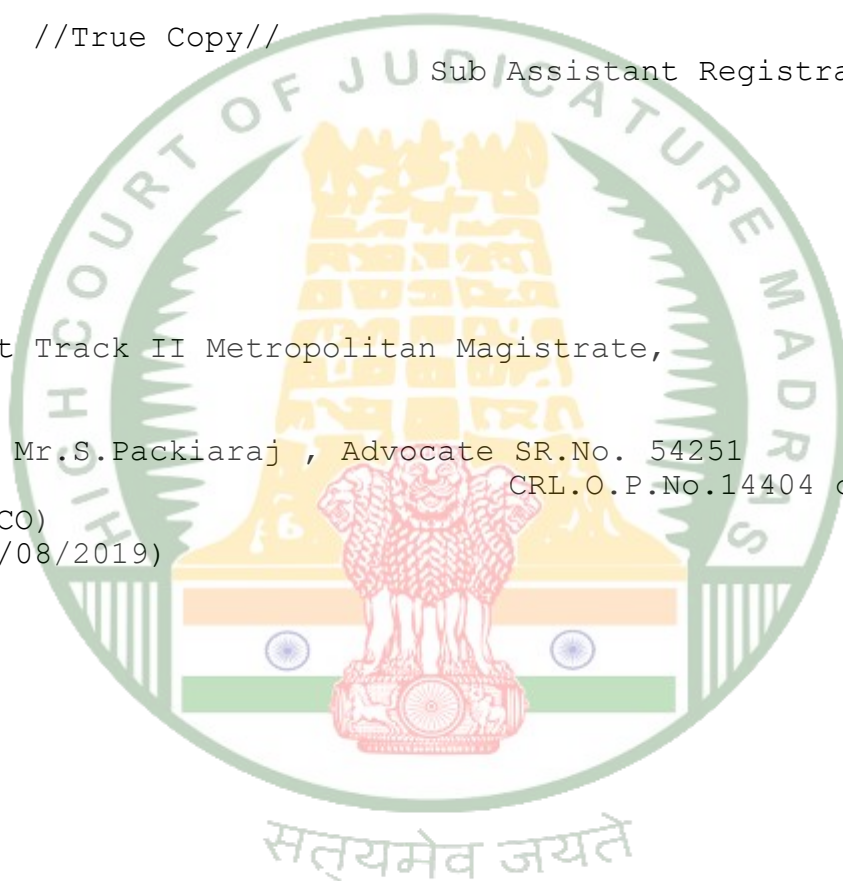
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To

The Fast Track II Metropolitan Magistrate,
Egmore.

+1cc to Mr.S.Packiaraj , Advocate SR.No. 54251
CRL.O.P.No.14404 of 2013

nrl (CO)
A.SK(13/08/2019)



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