

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.27873 of 2012 and
Crl.M.P.Nos.1 & 2 of 2012

1.M/s.Sivler Line Film Factory,
Rep. by its Proprietor,
Mr.S.Pathiban,
15-D, Valmiki Street,
T.Nagar, Chennai-600 017.

2.Mr.S.Parthiban .. Petitioners

Vs.

M/s.Axess Seven,
Rep. by its Sole Proprietor,
Shri G.Dillibabu,
Having office at Vasanth Apartments,
F-2, Block "C" No.1, N.S.N.Garden,
Voltas Colony Extension,
Nanganallur, Chennai-600 061. .. Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to quash the proceedings in C.C.No.165 of 2012 on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai.

For Petitioners : M/s.R.Natesh Kumar

For Respondent : No Appearance

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.165 of 2012 on the file of the XVII Metropolitan Magistrate, Saidapet.

2.The petitioners are the accused in C.C.No.165 of 2012 on a private complaint filed by the respondent before the learned XVII Metropolitan Magistrate, Saidapet for the offence under Sections 138 and 142 of the Negotiable Instruments Act, 1881.

3.The case of the respondent is that on 01.02.2010 the petitioners have entered into financial agreement with the respondent. To that effect, the petitioners received a sum of Rs.10,00,000/- by way of cash. Thereafter, on 11.02.2010 and 16.02.2010 the petitioners received a sum of Rs. 20,00,000/- by way of two cheques, totalling a sum of Rs.30,00,000/-. Under the said financial agreement the petitioners have agreed to pay interest at the rate of 36% per annum and also to repay the entire amounts to the respondent on or before 31.03.2010.

4.In discharge of the said liability, the petitioners issued four cheques as follows:-

Sl.No	DATE	CHEQUE No.	Amount in Rs.
1.	21.10.2010	288 097	Rs.10,00,000
2.	21.10.2010	288 098	Rs.10,00,000
3.	21.10.2010	288 090	Rs.5,00,000
4.	21.10.2010	288 091	Rs.5,00,000
		Total	Rs.30,00,000

When the respondent presented the four cheques for collection through its banker Indian Overseas Bank, SME, Guindy Branch, Chennai, two cheques were dishonoured due to "insufficient funds" and other two cheques were dishonoured due to "Payment Stopped by drawer". Therefore, the respondent issued statutory notice dated 23.11.2010 to the petitioners. On receipt of the same, the petitioners failed to pay the above said amount.

5.The learned counsel for the petitioners would submit that in respect of the very same transaction the respondent has filed C.S.No.902 of 2010 before this Court and obtained decree and Judgment. As per the finding in C.S.No.902 of 2010, the petitioners deposited a sum of Rs.15,00,000/- to the credit of above suit and it was also withdrawn by the respondent. Despite the same, the above case has been filed for liability for a sum of Rs.30,00,000/-. According to the petitioner this fact has been suppressed by the respondent.

6.He would further contended that in the financial agreement related to the production of Tamil film "Singam Puli", there is no mention about the payment of Rs.10,00,000/- given by the respondent in cash on 01.02.2010 and subsequent payment of Rs.10,00,000/- each on 11.02.2010 and 16.02.2010 by way of cheques. Taking advantage of the trade practise, on receipt of

signed blank cheques, the respondent filled up the same and filed a false case against the petitioners.

7.The issues that have been raised by the learned counsel for the petitioner are factual one and this Court does not want to interfere with the proceedings at this stage and it is left open to the petitioner to raise all the contentions before the Court below in the course of trial.

8.In the result this Criminal Original Petition stands dismissed by giving liberty to the petitioner to raise all the issues before the Court below and consequently, the connected Miscellaneous Petitions are closed.

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Sd/-
Assistant Registrar

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Sub Assistant Registrar

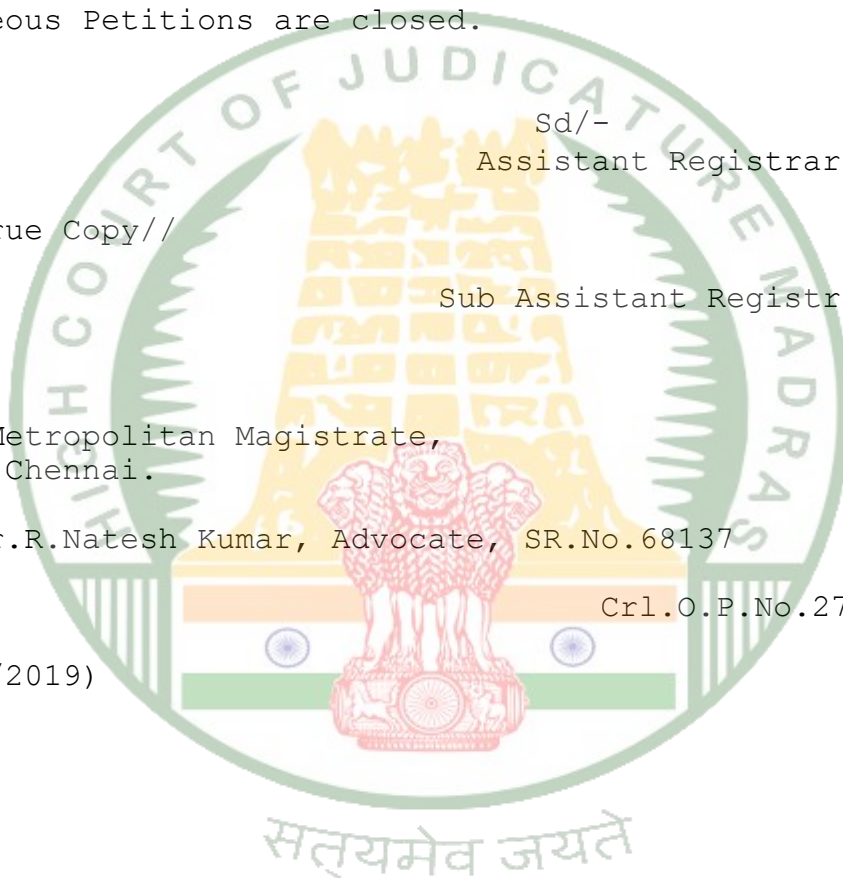
To

The XVII Metropolitan Magistrate,
Saidapet, Chennai.

+1cc to Mr.R.Natesh Kumar, Advocate, SR.No.68137

Cr1.O.P.No.27873 of 2012

Kak (30/09/2019)



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