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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2019

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Cr1.O.P. No.28014 of 2012

and

M.P.No.1 of 2012

M.Thiagarajan

... Petitioner/Accused 2

.vs.

Hindustan Petroleum Corporation Ltd.,
Rep. by its manager-Customer Relations,
C.Gokulkrishnan,
Aviation Service Facility,
Chennai Airport, Pallavaram Cantonment,
Chennai-600 043.

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.5156 of 2010 pending on the file of the learned XIII Metropolitan Magistrate, Egmore, Chennai and quash the same as against the petitioner.

For Petitioner : Mr.Elango

For Respondent : Mr.M.Vijayan for
King & Partridge

ORDER

This petition has been filed to quash the proceedings in C.C.No.5156 of 2010 on the file of the learned XIII Metropolitan Magistrate, Egmore, Chennai.

2.The learned counsel for the petitioner submitted that the respondent has filed a private complaint before the learned XIII Metropolitan Magistrate, Egmore, Madras, for the offence punishable under Sections 138 and 142 of Negotiable Instruments Act, alleging that three cheques bearing Nos.072301, 072302 and 072303 for a sum of Rs.1,00,00,000/- each, drawn on Axis bank, when presented by the petitioner was returned "Payment Stopped by Drawer". The learned counsel for the petitioner submitted that the alleged cheques issued by the company/first accused, the petitioner has never been a Managing Director of the first accused/company and he got retired from the first accused company as early as on



05.09.2009, itself. Therefore, the petitioner is not at all liable for the offence punishable under

Section 138 of Negotiable Instrument Act. Therefore, he prays to quash the entire proceedings.

3. Heard both sides and perused the materials placed before this Court.

4. It is seen that the petitioner had filed a several Petitions before this Court in Crl.O.P.Nos.7995, 7996 of 2014 and 8062 to 8064 of 2014 and the same were dismissed on 27.03.2019 and this Court directed to complete the trial within a period of three months from the date of receipt of copy of this order. The relevant paragraph Nos.5 and 6 are extracted here under:-

5. It is seen that the respondent initiated proceedings under Sections 138 and 142 of Negotiable Instruments Act as against the petitioner and others in which the petitioner arrayed as second accused. He has been implicated as second accused in the capacity of Managing Director of first accused company Viz., M/s.Paramount Airways Pvt. Ltd. The only point raised by the learned counsel for the petitioner at the time of issuance of alleged cheque, the petitioner is not the Managing Director of the first accused company and also produced Form 32. It reveals that the petitioner retired from the first accused company as early as on 05.09.2009. Whereas the documents filed by the respondent reveals that on 09.11.2009, the petitioner signed as Managing Director in Form 8 submitted to the Registrar of Companies and in the letter addressed to DGCA, Chennai, dated 24.12.2009. There are other documents which revealed that the petitioner signed as Managing Director of the first accused company. Therefore, on the documents produced by the petitioner alone, the proceedings in C.C.No.942 of 2011 cannot be initiated since there are other documentary evidence, which reveals that even after the retirement, Viz., 05.09.2009, the petitioner has signed as Managing Director of the first accused company. The points raised by the petitioner cannot be considered in this quash petition since it involves question of facts and it has to be considered only during the trial.

6. In view of the above discussions, this Court is not inclined to entertain these petitions. Accordingly, these Criminal Original Petitions are dismissed. Consequently, the connected miscellaneous petitions are also closed.



5. In view of the above decision, the Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

tta

To,

1.The Chief Judicial Magistrate, Chennai-8

2.The XIII Metropolitan Magistrate,
Egmore, Chennai.

+1cc to M/s.King & Partridge, Advocate SR.No.106564

Crl.O.P. No.28014 of 2012
and
M.P.No.1 of 2012

PVS (CO)
GMY (06/02/2020)