

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2019

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.OP No.3413 of 2013
and M.P.Nos.1 & 2 of 2013

Harish .. Petitioner/Respondent

Vs.

Murugan ... Respondent/Petitioner

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records and quash the complaint in C.C.No.189 of 2012 on the file of the learned Judicial Magistrate No.I, Mettur.

For Petitioner : Mr.V.P.Raman

For Respondent : Mr.S.Doraisamy

ORDER

This criminal original petition has been filed seeking to quash the complaint in C.C.No.189 of 2012 on the file of the learned Judicial Magistrate No.I, Mettur.

2 The respondent has filed a private complaint under Section 200 of Cr.P.C against the petitioner for the offence punishable under Section 138 of Negotiable Instruments Act, before the learned Judicial Magistrate No.I, Mettur. The Magistrate has also taken cognizance on the complaint in C.C.No.189 of 2012. During pendency of the above calender case, the accused herein has preferred this petition seeking to quash the above case.

3 The learned counsel appearing for the petitioner/accused would submit that the petitioner has not signed the disputed cheque and the cheque was issued on behalf of the Company and signed by one of the Directors of the Company, whereas, the Company has not been arrayed as party. Therefore without adding the Company as party, the complaint has to be quashed. The learned counsel has placed reliance on the decisions of the Hon'ble Supreme Court as well as the High Court of Madras reported in (2019) 3 Supreme Court Cases 797

(Himanshu vs. B.Shivamurthy and another), (2012) 5 Supreme Court Cases 661 (Aneeta Hada vs. Godfatehr Travels and Tours Private Limited etc., batch), 1999 (2) MWN (Cr.) 35 (S.Viswanathan & Others vs. M/s.United Phosphorous Ltd.,) and 1997 (2) MWN (Cr.) 99 (Anandan and another vs. Arivazhagan).

4 The learned counsel appearing for the respondent has fairly admitted that the Company has to be added as party.

5 Heard the learned counsel appearing on either side and perused the materials available on record.

6 It is seen that the disputed cheque has been signed by one of the Directors and that was not the petitioner herein and even the Company has not been arrayed as party to the proceedings. The learned counsel has also relied on the decisions of the Hon'ble Supreme Court and this Court. Further the learned counsel appearing for the respondent/complainant has also accepted the contention raised by the petitioner. The learned Magistrate, without applying his mind, has taken the cognizance on the defective complaint.

7 In view of the above, this criminal original petition is allowed and the case in C.C.No.189 of 2012 is hereby quashed. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Judicial Magistrate No.I, Mettur.

+1cc to Mr.V.P.Raman, Advocate SR.96001/19

+1cc to Mr.S.Doraisamy, Advocate SR.96639

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RJI (CO)
CB(07/01/2020)