

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.Nos.6533, 6784 and 6788 of 2019
and
Crl.M.P.Nos.3746, 3663 and 3747 of 2019

1. M/s.Solar Designs Private Limited,
Represented by its Managing Director
Mr.A.A.Apath Sakaayem.

2. A.A.K.Apath Sakaayem,
Managing Director
M/s.Solar Designs Private Limited
Chennai - 600 006.

...Petitioners
(in all three petitions)

-Vs-

1. M/s.V.J.Traders,
Represented by its Partner,
S.Balasubramanian,

2. Santiago James Arokia Mary,
Director, Solar Designs Private Limited,

... Respondents
(in all three petitions)

(i) Prayer in 6533/2019: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to set aside the impugned order in Crl.M.P.No.7336 of 2018, dated 11.02.2019, in C.C.No.4328 of 2016 on the file of the Fast Track Court - I, Metropolitan Magistrate, Egmore, Chennai.

(ii) Prayer in 6788/2019: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to set aside the impugned order in CrI.M.P.No.7338 of 2018, dated 11.02.2019, in C.C.No.4337 of 2016 on the file of the Fast Track Court-I, Metropolitan Magistrate, Egmore, Chennai.

(iii) Prayer in 6784/2019: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to set aside the impugned order in CrI.M.P.No.7334 of 2018, dated 11.02.2019, in C.C.No.4330 of 2016 on the file of the Fast Track Court - I, Metropolitan Magistrate, Egmore, Chennai.

For Petitioners : M/s.N.Rabiya
(in all three petitions)

For Respondent-1 : Mr.C.Raghavan
(in all three petitions) Government Advocate (Criminal Side)

For Respondent-2 : No Appearance
(in all three petitions)

COMMON ORDER

These Criminal Original Petitions have been filed to set aside the order passed in CrI.M.P.Nos.7336, 7338 and 7334 of 2018 in C.C.Nos. 4328, 4337 and 4330 of 2016, dated 11.02.2019 by the learned Metropolitan Magistrate, Fast Track Court-I, Egmore, Chennai, thereby allowed all the three petitions filed by the petitioner filed under section 311 CrPC to recall the PW1 for furnishing the details of accounts, bills, ledger statements etc.

2. Heard the learned counsel appearing for the petitioners as well as the learned Government Advocate [Criminal Side] for the first respondent (in all three petitions) and none appeared on behalf of the second respondent and perused the materials available on record.

3. The respondent/complainant had filed under Section 200 CrPC., as against the petitioner before the learned Metropolitan Magistrate, Fast Track Court-I, Egmore, Chennai-8, for the offence punishable under Section 138 of the Negotiable Instruments Act. The accused approached the complainant in the year 2013 to meet their business and the accused have ordered the complainant to supply for their requirements. During the course of transaction, the accused was due a sum of Rs.2,76,679/- towards the part discharge of the above said liability, the accused had issued two cheques in favour of the complainant viz., bearing Nos.215102, dated 04.01.2014 for Rs.42,500/-; 215103, dated 04.01.2014 for Rs.57,500/- both drawn on Axis Bank, Mylapore, Chennai-4. As per the request of the accused, the complainant had presented the said cheques for encashment through his bankers viz., City Union Bank Limited, Mount Road Branch, Chennai, but the said cheques were returned dishonoured by the accused bankers for the reason "Funds Insufficient" and the same was intimated to the complainant through his bankers on 05.03.2014. Hence,

the complainant issued a legal notice through his counsel to the accused on 26.03.2014 calling upon the accused to repay the dishonoured cheque's amount within fifteen days from the date of receipt of the said notice. The accused received the said notice on 27.03.2014, they neither paid the amount nor replied and thereby the accused have committed an offence punishable under section 138 read with 142 of the Negotiable Instruments Act. Hence, the complaint.

4. The learned Additional Public Prosecutor would submit that all the witnesses have been examined and the case is posted for arguments. Hence, he prayed for dismissal of these petitions.

5. It is seen that the petitioners are an accused and sought for permission to recall the PW1 for furnishing the details of accounts, bills, ledger statements etc. It is also seen from the records that the PW1 was not cross examined in full before the Trial Court. Therefore, the Trial Court is straight away dismissed the petitions filed by the petitioner under Section 311 CrPC. Now, the case is posted for arguments. Hence, the petitioner has to be necessarily cross examined by the petitioner.

6. Considering the facts and circumstances of the case, there is no infirmity or irregularity in the order passed in CrI.M.P.Nos.7334, 7336 and 7338 of 2018 in C.C.Nos.4328, 4330 and 4337 of 2016, dated 11.02.2019 by the learned Metropolitan Magistrate, Fast Track Court-I, Egmore, Chennai-600 008. Hence, this Court finds no merits in all these petitions. Accordingly, the Criminal Original Petitions are dismissed. Consequently, connected Criminal Miscellaneous Petitions are closed.

27.04.2019

Internet: Yes
Index : Yes/No;
Speaking/Non Speaking order
msm

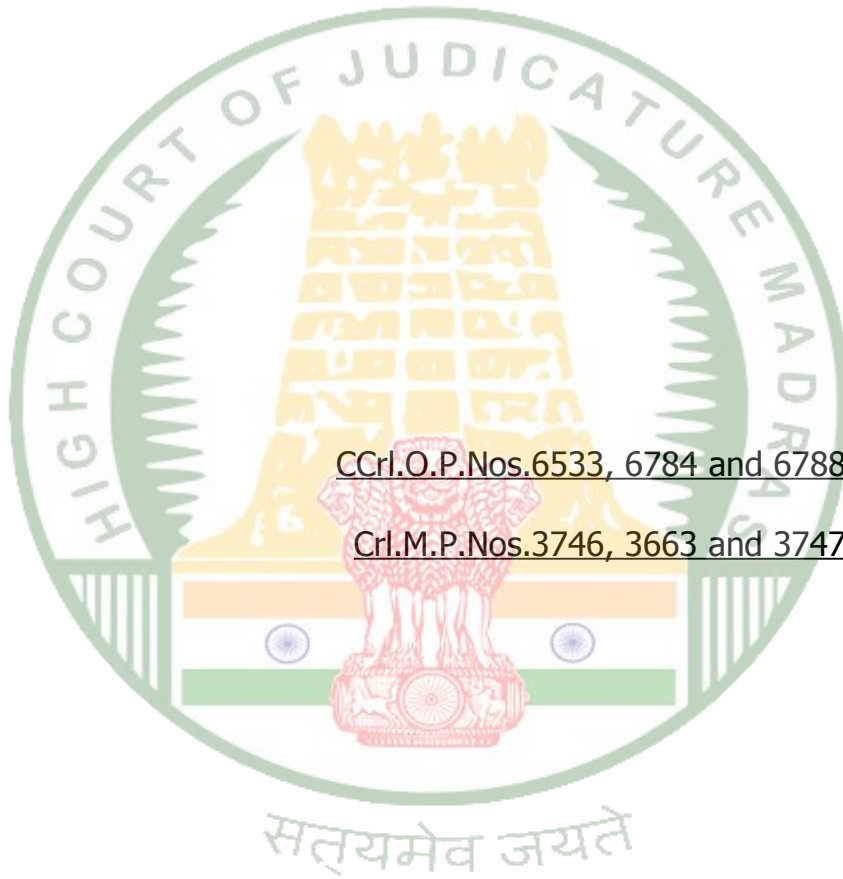
To

1. The Metropolitan Magistrate, Fast Track Court-I, Egmore, Chennai-8.
2. The Public Prosecutor, High Court, Madras.

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G.K.ILANTHIRAIYAN. J,

msm



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