

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.12766 of 2014

and

M.P.Nos.1 of 2014

S.P.Srihari

...Petitioner

Vs.

Syndicate Bank,
Represented by its Chief Manager,
S.V.Santhanam,
Corporate Finance Branch,
170, Eldams Road, First Floor,
Chennai - 600 018.

... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in C.C.No.990 of 2014, on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioner : Mr.Nithyaesh Nataraj

For Respondent : No Appearance

O R D E R

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.990 of 2014 pending on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai.

2.The respondent/complainant filed a private complaint under Section 200 of Criminal Procedure Code against the petitioner/A5 for the offences punishable under sections 138 and 141 of The Negotiable Instruments Act, (hereinafter referred to as the 'NI Act') 1881.

3.The gist of the complaint is that the petitioner had availed a loan from the respondent for a sum of Rs.50,00,00,000/- (Rupees Fifty Crores Only) and he has been executed a promissory note with the complainant. It is the further case of the respondent that the petitioner/A5 issued a

cheque bearing Nos.015551, and 015565 dated 23.05.2013 for a sum of Rs.6,25,00,000/- and 2,14,10,555.44/-, when the cheques were presented for encashment by the respondent through his bankers viz., M/s.Syndicate Bank on 23.05.2013, all the two cheques were dishonoured for the reason "Funds Insufficient". It is seen that the aforesaid cheques were issued by the petitioner in favour of the complainant only towards a legally enforceable debt and payable by the petitioner for the loan received by the petitioner from the complainant. Therefore, the respondent issued a notice dated 08.06.2013 to the petitioner calling upon him to repay the loan amount of the dishonoured cheques, viz., a sum of Rs.8,39,10,555.44/- within fifteen days from the date of receipt of the notice by the accused. After receiving the said notice, on 09.06.2013, the petitioner has failed to discharge their liability by paying the value of the dishonoured cheques, viz., Rs.8,39,10,555.44/- till date. Therefore, the respondent filed a private complaint under Section 200 of Criminal Procedure Code before the learned XVIII Metropolitan Magistrate, Saidapet, Chennai, for the alleged offences punishable under sections 138 and 141 of the Negotiable Instruments Act, 1881.

4.Heard the learned counsel appearing for the petitioner and there is no representation on the side of the respondent and perused the materials available on record.

5.It is seen that the petitioner, who has been arrayed as A5 in C.C.No.990 of 2014 on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai, was working in Zylog as an employee at the relevant point of time.

6.Nothing has been placed on record to show that the petitioner was actively involved in the day to day affairs of the first accused company. It is the specific case of the petitioner that on the alleged date of commission of the offences under Sections 138 read with 141 of the Negotiable Instruments Act. The petitioner was not at all involved in the affairs of the company. The said plea of the petitioner has not been rebutted by the complainant by adducing any evidence. That apart, no specific overtact has been attributed against the petitioner.

7.Accordingly, the Criminal Original Petition is allowed and the proceedings in C.C.No.990 of 2014 pending on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai, is quashed insofar as the petitioner/A5 is concerned. The learned XVIII Metropolitan Magistrate, Saidapet, Chennai, is directed to complete the trial in respect of other accused within a period

of three months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

AT

To

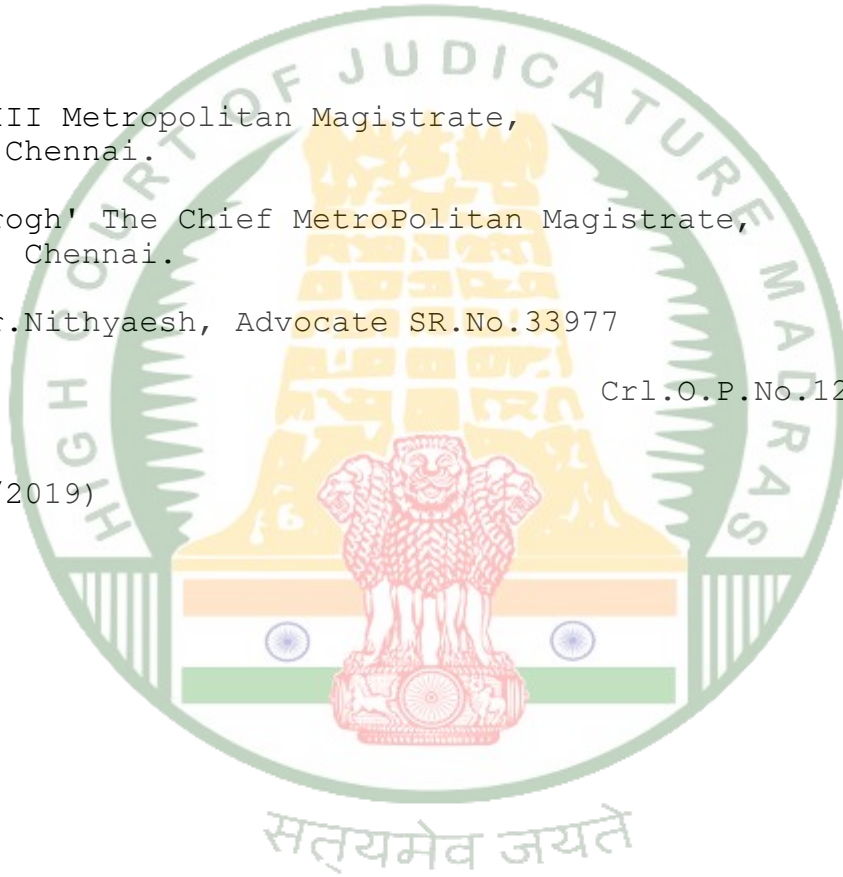
1. The XVIII Metropolitan Magistrate,
Saidapet, Chennai.

2. -do-Throgh' The Chief MetroPolitan Magistrate,
Egmore, Chennai.

+2cc to Mr.Nithyaesh, Advocate SR.No.33977

Cr1.O.P.No.12766 of 2014

NRKJ(CO)
GMY (20/05/2019)



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