

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.25587 of 2014

and

M.P.No.1 of 2014

D.Vijay Anand,
Director,
Annai Industries Linngs Pvt. Ltd.,
11-A, 3rd Cross, Anna Nagar,
Pondicherry-605 001.

...Petitioner/Accused No.4

Vs.

M/s.Sairam Trading Corporation,
Rep. by its Managing Partner,
Mr.T.Kanagaraj,
S/o.R.P.Thiraviam
No.569, Cross Cut Road,
KLR Complex,
Coimbatore-641 012.

...Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in S.T.C.No.355 of 2009 pending on the file of the VII Judicial Magistrate, Coimbatore and quash the same.

For Petitioner : Mr. S.Palanirajan

For Respondent : M/s.K.S.Karthik Raja
and A.Esakkiappan

ORDER

This Criminal Original Petition has been filed challenging the proceedings initiated by the respondent under Section 138 of Negotiable Instruments Act.

2. The petitioner has been added as A4 in his capacity as the Director of A1 company.

3. A reading of the petition clearly reveals the fact that A3 and A5 have signed the cheque on behalf of A1 company. This petitioner has been added as an accused on the ground that he is also a director in the company. In the entire complaint, there is no averment as against the petitioner (A4) as to how and in what manner, the petitioner was incharge of and responsible for the conduct of the business of the company and there is a mere bald statement that he is incharge of and responsible for the day-to-day affairs of the company.

4. The facts of this case is squarely covered by the judgement of this Court in Anil Pathar v. Larsen and Toubro Limited reported in 2019 I MLJ Criminal 385.

5. Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondent.

6. In the considered view of this Court, the proceedings against this petitioner is an abuse of process of Court and the same requires interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

7. In the result, this Criminal Original Petition is allowed and the proceedings in S.T.C.No.355 of 2009 on the file of the Judicial Magistrate No.VII, Coimbatore is hereby quashed in-so-far-as the petitioner (A4) is concerned. The Court below is directed to proceed further with the complaint in-so-far-as the other accused persons (A1, A2, A3 and A5) and complete the proceedings in S.T.C No.355 of 2009 within a period of three months from the date of receipt of copy of this order. Consequently, the connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

To

The Judicial Magistrate No.VII, Coimbatore.

Copy to

The Section Officer, Criminal Section, High Court, Madras

+1cc to Mr.K.S.Karthik Raja , Advocate SR.No. 48901

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A.SK(15/07/2019)