

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.20221 of 2017
and
Crl.M.P.Nos.12146 & 12147 of 2017

Vineet Lalani
Proprietor
M/s.Infocity
Plot No.B-7, Silicon Lane
Shahid Nagar,
Bhubaneshwar 751 007 ... Petitioner/Accused

Vs.

M/s.Redington (India) Ltd.,
Rep. by Mr.M.Sundararajan
Senior Legal Executive
SPL, Guindy House
No.95, Mount Road, Guindy
Chennai 600 032 ... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records and quash the proceedings instituted by the respondent against the petitioner in C.C.No.260 of 2017 on the file of the Fast Track Court-III at Saidapet, Chennai.

For Petitioner : Mr.B.Kumar, Senior Counsel
for Mr.P.K.Sabapathy

For Respondent : Mr.V.T.Narendiran

O R D E R

This Criminal Original Petition has been filed by the petitioner under Section 482 of Cr.P.C., to call for the records and quash the proceedings instituted by the respondent against the petitioner in C.C.No.260 of 2017 on the file of the Fast Track Court-III at Saidapet, Chennai.

2.The learned Senior Counsel appearing for the petitioner would submit that the respondent initiated proceedings as against the petitioner for the offence under Section 138 of

Negotiable Instruments Act, 1881 r/w. Section 200 Cr.P.C. before the XVIII Metropolitan Magistrate Court, Saidapet, Chennai. The case of the respondent is that the respondent supplied goods on various invoices till 15.10.2015 and a cheque was issued for a sum of Rs.31,67,970/- on 09.03.2016 for the goods received by the petitioner.

3.The learned counsel would further submit that on the date of business and on the date of alleged issuance of cheque, the petitioner was in Special Jail, Bhubaneswar and he was enlarged on bail only by the order dated 11.11.2016. Thereafter, the petitioner was released from the prison only on 21.12.2016. Therefore, he might not have involved in the business transaction and he might not have issued the alleged cheque to the respondent / defacto complainant. The learned counsel would further submit that the said cheque was issued to the respondent herein for the security purpose, subsequently, after the arrest of the petitioner, the entire business was completely transferred to some other party and the petitioner is no way connected to the said business during the relevant point of time. Accordingly, prays for quashing the proceedings in C.C.No.260 of 2017.

4.Per contra, the learned counsel appearing for the respondent would submit that the grounds raised by the petitioner and the question of facts cannot be decided by the provisions under Section 482 of Cr.P.C. Further, the learned counsel would contend that the petitioner never denied the signature in the cheque and the issuance of the alleged cheque. Therefore, he prays for dismissal of the quash petition.

5.Heard the learned counsel appearing for the petitioner as well as the learned counsel for the respondent.

6.On a perusal of the records, it is seen that the respondent / complainant filed a complaint on the basis of the goods supplied to the petitioner. The petitioner / accused issued a cheque bearing No.101333 for a sum of Rs.31,67,970/- dated 09.03.2016. When the said cheque was presented for collection, the same was returned as dishonoured by the petitioner's banker. Thereafter, a statutory notice was issued to the petitioner and the proceedings for the offence under Section 138 of the Negotiable Instruments Act, 1881 was initiated as against the petitioner.

7.The learned Senior counsel appearing for the petitioner has pointed out that at the time of alleged business and on the date of alleged issuance of cheque, the petitioner was in jail and he was released only on 21.12.2016. These submissions involved question of facts and therefore, this Court cannot consider these facts in this quash petition. It has to be proved

only during the trial. Therefore, this court is not inclined to allow this petition.

8.Considering the fact that C.C.No.260 is of the year 2017, this Court directs the Trial court to complete the Trial within a period of three months from the date of receipt of a copy of this order.

9.However, considering the age of the petitioner, the personal appearance of the petitioner is dispensed with and he shall be represented by a counsel after filing appropriate application. The petitioner shall present before the Court at the time of furnishing of copies, framing of charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment. The petitioner is also granted liberty to raise all the grounds before the Trial Court.

10.Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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TO

1.The Fast Track Court III,
Saidapet, Chennai.

+1cc to Mr.Mohammed Ismail, Advocate, S.R.No. 33872

+1cc to Mr. V.T.Narendiran, Advocate, S.R.No.32531

CRL.O.P.No.20221 of 2017
and

CrI.M.P.Nos.12146 & 12147 of 2017

SR(CO)
GN(10/05/2019)

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