

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.02.2019

Coram

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

Crl.O.P.No.4114 of 2017
and Crl.M.P.No.3065 of 2017

M/s.ANJ World Wide Fright Pvt Ltd,
Represented by its Operation Manager,
Mr.Varghease Cherian,
Registered Head Office at
B-13, 2nd Floor, Mahadevan Buildings,
No.395, T.T.K.Road, Alwarpet,
Chennai - 600018. Petitioner

Vs.

M/s.Jeevan Shipping & Logistic Pvt Ltd
Represented by its Managing Director,
Mr.S.Velavan,
Corporate Office at No.97G/6, Palayamkottai Road (West),
Tuticorin - 628008
Branch Office at
S.M.J. Parry's Plaza 1st Floor,
1-D, Old No.12, New No.28 Second Lane Beach
(GPO Back Side, Jahangir Street)
Chennai - 600 001. ... Respondent

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the C.C.No.763 of 2016 pending on the file of the VII Metropolitan Magistrate Court, George Town, Chennai and quash the same.

For Petitioner : Mr.R.Narendran

For Respondent : Mr.R.Ravindran

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.763 of 2016 pending on the file of the VII Metropolitan Magistrate Court, George Town, Chennai.

2. The learned counsel for the petitioner would submit that the petitioner arrayed as first accused in the complaint filed by the respondent for the offence punishable under the provisions of Section 138 read with Section 142 of the Negotiable Instrument Act, 1881. Admittedly, the impugned cheques were issued by the second accused, namely, Mrs.Bharathi Rajagopalan and it is clearly stated in her statutory notice issued under Section 138 of the Negotiable Instrument Act. Further, the learned counsel for the petitioner would submit that the petitioner is no way connected with the said lady Mrs.Bharathi Rajagopalan/Accused-2 and the entire complaints are not at all maintainable as against the petitioner. Therefore, he sought for quashing the complaint as against the petitioner.

3. Per contra, the learned counsel for the respondent would submit that there are transactions between the petitioner and the respondent and the petitioner also involved in respect of repayment of the amount and therefore, the respondent had filed a complaint for the offence under Section 138 read with 142 of the Negotiable Instrument Act, 1881. Hence, the complaint is very much maintainable as against the petitioner and prayed for dismissal of this quash petition.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

5. The petitioner is arrayed as first accused. The complaint alleged by the respondent for the alleged offence under Section 138 read with 142 of the Negotiable Instrument Act 1881, that the respondent, in the course of business, one Mr.John Edward introduced the second accused Mrs.Bharathi Rajagopalan who is an employee of the petitioner, and both the petitioner as well as the second accused approached the defacto complainant on behalf of their client M/s.Gherkins Agro Exports Private Limited, for shipment movement customs and forwarding (C & F) activities at Tuticorin Port. In the said Transaction, the second accused issued two Cheques dated 29.11.2014 both drawn on IDBI Bank, Alwarpet Branch at No.37, C.P.Ramaswamy Road, Alwarpet, Chennai - 600018 vide Cheque No.174963 for a sum of Rs.1,23,000/- and Cheque No.174964 for a sum of Rs.6,399/- in favour of the respondent, towards the handling charges including the complainant's service charges as Customs Housing Agent. The said cheques were accepted and given by the second accused on behalf of the first accused, and therefore the complaint has been filed as against both the accused, as both are liable to be prosecuted for the offence punishable under Section 138 read with 142 of the Negotiable Instrument Act 1881.

6. It is seen that the alleged impugned Cheques dated 29.11.2014, admittedly issued by the second accused and the same are pertaining to the account holder of the second accused. Therefore, the present complaint is not at all sustainable as against the petitioner. Further, the alleged cheques issued by the second accused on her personal capacity and therefore, the petitioner is no way connected with the said cheques issued by the second accused. In view of the same, the complaint given by the respondent is not at all maintainable and cannot be sustained as against the petitioner. Hence, this Court is inclined to quash the complaint as against the petitioner alone.

7. Accordingly, this Criminal Original Petition is allowed and the proceedings in C.C.No.763 of 2016 pending on the file of the VII Metropolitan Magistrate Court, George Town, Chennai, as against the petitioner alone is quashed. Considering the case of the year 2016, the Trial Court is directed to complete the trial in C.C.No.763/2016 against 2nd 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(CS VIII)

//True Copy//

Sub Assistant Registrar

To

The VII Metropolitan Magistrate Court,
George Town, Chennai.

+lcc to Mr.R.Narendran, Advocate sr.no.18717
+lcc to Mr.R.Ravindran, Advocate sr.no.19139

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