

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2019

CORAM :

THE HON'BLE MRS.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

Crl. O.P.Nos.23023 and 23173 of 2018 and
Crl.M.P.Nos. 12852 and 3590 of 2018

1. M/s.Esjaypee Impex Private Limited
No.186, Govindappa Naicken Street
Chennai - 600 079
A Company incorporated under the
provisions of Companies Act

2. Mahendra Kumar Parmar

.. Petitioners Crl. O.P.No.23023/2018

Canara Bank
A.N. Street Branch
No.131, Audiappan Naicken Street
Chennai - 600 079
Represented by its Chief Manager
Mr.Saravanan

... Petitioner Crl. O.P.No.23173/2018

M/s. D.Subathra
Wife of T.G.Venkatesan
Chief Manager and Authorized Officer
Canara Bank
131, Audiappan Naicken Street
Chennai - 600 079

.. Respondent in Crl. O.P.No.23023/2018

M/s.Esjaypee Impex Private Limited
Represented by its Director
Mr.Mahendrakumar Parmar
No.186, Govindappa Naicken Street
Chennai - 600 079 and also
Old No.23, New No.2 Rajarathinam Street
Kilpauk
Chennai - 600 010

... Respondent in Crl. O.P.No.23173/2018

Crl. O.P.No.23023/2018 Criminal Original Petition filed under section 482 of Criminal Procedure Code praying to set aside the order dated 10.09.2018 passed by the Chief Metropolitan Magistrate in Crl.M.P.No.3655 of 2018 on the file of the Chief Metropolitan Magistrate, Egmore at Allikulam.

Crl. O.P.No.23173/2018 Criminal Original Petition filed under section 482 of Criminal Procedure Code praying to direct the Chief Metropolitan Magistrate Court, Allikulam to expedite the petition filed under section 14 of SARFAESI Act in Crl. M.P.No.2653 of 2017 within the time frame.

For Petitioners : Mr.N.R.Elango (in Crl. O.P.No.23023/2018)
Mr.C.Rajan (in Crl. O.P.No.23173/2018)

COMMON ORDER

(Order of the Court made by M.DURAISWAMY,J.)

Criminal Original Petition No.23023 of 2018 has been filed by the borrowers to set aside the order dated 10.09.2018 passed by the Chief Metropolitan Magistrate, Egmore, Chennai in Crl.M.P.No.3655 of 2018.

2. The Canara Bank has filed a petition in Crl.M.P.No.2653 of 2018 under section 14 of SARFAESI Act, before the Chief Metropolitan Magistrate, Egmore, Chennai. In the said petition, the petitioners filed a petition in Crl.M.P.No.3655 of 2018 under section 340 of the Criminal Procedure Code.

3. It is the case of the petitioners that the respondent has played fraud on the Court and therefore, appropriate action should be taken against her. The Chief Metropolitan Magistrate, by order dated 10.09.2018, posted the matter for enquiry on 24.09.2018 finding that the respondent can be given an opportunity of being heard at any stage and it is the discretion of the Court. Challenging this order, the petitioners have filed the Criminal Original Petition No.23023 of 2018.

4. On a perusal of the order dated 10.09.2018, it is clear that the Chief Metropolitan Magistrate has only posted the matter on 24.09.2018 for enquiry. That apart, just to prolong the matter, section 340 Criminal Procedure Code petition cannot be used as a tool by the petitioners. The order passed by the Chief Metropolitan Magistrate cannot be faulted in any manner whatsoever. The order passed by the Chief Metropolitan

Magistrate is just and proper. The Criminal Original Petition No.23023 of 2018 is devoid of merits and is liable to be dismissed.

5. Criminal Original Petition No.23173/2018 has been filed by the Bank to direct the Chief Metropolitan Magistrate to expedite the petition filed under section 14 of SARFAESI Act in Crl. M.P.No.2653 of 2017, within a time frame.

6. Since Crl. M.P.No.2653 of 2017 is pending from 2017 and that the petition filed under section 14 should be disposed of within a period of 60 days, without expressing any opinion with regard to the merits of the case, we direct the Chief Metropolitan Magistrate, Egmore, Chennai, to dispose of Crl. M.P.No.2653 of 2017, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

7. For the reasons stated above, Criminal Original Petition No.23023 of 2018 is dismissed and Criminal Original Petition No.23173 of 2018 is allowed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

Rj

To

1. The Chief Manager and Authorized Officer
Canara Bank
131, Audiappan Naicken Street
Chennai - 600 079

2. The Chief Metropolitan Magistrate,
Egmore at Allikulam.

Crl. O.P.Nos.23023 and 23173 of 2018 and
Crl.M.P.Nos. 12852 and 3590 of 2018

JP (CO)
GMY (30/04/2019)