BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 15.04.2019
CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.O.P.(MD)No.5573 of 2019
& Crl.M.P.(MD)Nos.3510 & 3511 of 2019

1.Niagara Rubber Technology Private Limited,
Through its Managing Director,
Mr.R.R.Bhuvanesh, No.164, 1st Floor, South Masi Street,
Madurai - 625 001.

2.R.R.Bhuvanesh, Director,
Niagara Rubber Technology Private Limited,
No.164, 1st Floor, South Masi Street,
Madurai - 625 001. ... Petitioners

Vs.

M.Rajeswari ... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in S.T.C.No.89 of 2016 on the file of the Fast Track Court No.I (Magisterial Level), Uthamapalayam, and quash the same.

For Petitioners : Mr.S.J.Chakkaravarthy

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in S.T.C.No.89 of 2016 on the file of the Fast Track Court No.I (Magisterial Level), Uthamapalayam.

2.The facts of the case are that the respondent is an MCA Graduate and she has attended the interview in the first petitioner Company. After completion of interview and formalities, the first petitioner Company offered to appoint the respondent as Software Engineer - Trainee and sent a letter to her on 21.05.2014 to that effect. The respondent had accepted the said offer letter and joined the service of the first petitioner Company immediately. As per the said letter, the remuneration was fixed at Rs.10,000/- per month. At the time of joining in the first petitioner Company, all the original School and College Certificates were obtained by the petitioner from the respondent. Thereafter, the respondent worked in the Company from June 2014 to January 2015. But, the accused did not give any salary to her for 8 months. At one stage, in the month of August 2014, the second petitioner brainwashed the respondent stating that the Company decided to send her to USA on behalf of the Company and for that purpose, the second petitioner demanded Rs.3,00,000/- from her. Believing the sugar-coated words of the second petitioner, the respondent gave Rs.3,00,000/- to him. But, the second petitioner did not keep his words. Thereafter, the respondent approached the Company and demanded the above said amount and also arrears of 8 months salary and they refused to return the said amount, the respondent warned the accused to lodge a complaint against him. To avoid further proceedings, with a view to discharge the abovesaid liability, the second petitioner issued a cheque for Rs.3,80,000/- dated 21.02.2015, drawn on State of Bank of Travancore, West Masi Street Branch, Madurai. On presentation of the abovesaid cheque by the respondent with her Banker *viz.*, Canara Bank, Cumbum, on 21.02.2015, for realization, it was returned with an endorsement ''funds insufficient''. The same was communicated to the Banker of the accused on 23.02.2015. Immediately, the respondent informed the accused orally about the bounce of the said cheque and the second petitioner requested the respondent to represent the said cheque on 24.02.2015 and promised to honour the said cheque. When the said cheque was presented on 24.02.2015, the same was returned with an endorsement ''funds insufficient'' and the same was communicated by the Banker of the accused on 25.02.2015. Therefore, the respondent sent a legal notice on 17.03.2015 to the accused and thereafter, the accused did not make the payment. Hence, the respondent has filed the present complaint under Section 138 of the Negotiable Instruments Act.

3.The learned counsel appearing for the petitioners submitted that though the case was instituted in the year 2015, thereafter, the second respondent/de-facto complainant has received several amounts *i.e.*, nearly Rs.2,56,000/- from the petitioner right from 27.06.2018 onwards. In view of above said payment, there is no substance under Section 138 of the Negotiable Instruments Act against the petitioners.

4.Perusal of the records shows that the cheque was dishonoured in the year 2015 and subsequent receipts did not wipe out the crime committed by the petitioners. It is for the Trial Court to decide whether the petitioners have any legally enforceable debt in favour of the second respondent/de-facto complainant.

5.Considering the facts and circumstances of the case and since the charge framed against the petitioner discloses commission of cognizable offence, the same cannot be quashed in the light of the law laid down by the Hon'ble Apex Court in **State of Haryana Vs. Bhajan Lal** reported in **1992 (1) SCC 335**. It is for the petitioners to establish their case beyond reasonable doubt before the Trial Court. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (WRITS)

// True Copy //

Sub Assistant Registrar(CS)

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To

The Judge,
Fast Track Court No.I (Magisterial Level),
Uthamapalayam.

+1CC TO MR.S.J.CHAKKRAVARTHY, Advocate Sr. No. 61274

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