



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 31.10.2019

CORAM

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRL.O.P.(MD)No.10489 of 2015
and M.P.(MD)Nos.1 & 2 of 2015

1. Shri Renuga Soft-X Towels,
M/s.Shri Renuga Soft-X Towels (Unit-II),
(A Division of Shri Renuga Textiles Ltd.,)
Mariamman Koil Patti,
Theni 625 53,
Represented by its Director,
Kaliraj.

2. Shri Renuga Soft-X Towels,
M/s.Shri Renuga Soft-X Towels (Unit-II),
(A Division of Shri Renuga Textiles Ltd.,)
Mariamman Koil Patti,
Theni 625 53,
Represented by its Director,
R.Vasudevan

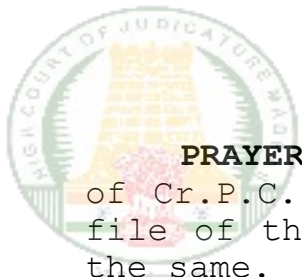
3. Shri Renuga Soft-X Towels,
M/s. Shri Renuga Soft-X Towels (Unit-II),
(A Division of Shri Renuga Textiles Ltd.,),
Mariamman Koil Patti,
Theni 625 53,
Represented by its Director,
L.Kamala Kannan

4. Shri Renuga Soft-X Towels,
M/s.Shri Renuga Soft-X Towels (Unit-II),
(A Division of Shri Renuga Textiles Ltd.,)
Mariamman Koil Patti,
Theni 625 53,
Represented by its Director,
J.Ramnarayan.

.. Petitioners/Accused Nos.3 to 6

Vs.

Sri Meenakshi Dye Chem
it's a Partnership Firm,
Rep.by its one of the Partner,
R.Alagupushpam, W/o.V.Sethuraj,
Having office at No.1/28, Vinayagamoorthy Street,
Santhamangalam, Madurai - 20. ... Respondent/Complainant



PRAYER : Criminal Original petition is filed under Section 482 of Cr.P.C., to call for the records in S.T.C.No.94 of 2015 on the file of the Judicial Magistrate, Fast Track Court, Theni and quash the same.

(Prayer is amended vide order dated 31.10.2019 in Cr1.M.P.(MD) No.8953 of 2019.)

For Petitioners : Mr.C.Muthusaravanan

For Respondent : Mr.P.Subbaraj

O R D E R

Heard the learned counsel on either side.

2. This is a case arising out of the transaction under Section 138 of the Negotiable Instruments Act.

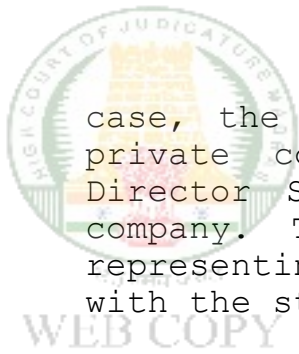
3. The complainant is the respondent herein. The respondent herein is a partnership firm and they are engaged in textile, chemical manufacturing business. They had supplied materials to Shri Renuga Soft-X Towels. It is a division of Shri Renuga Textiles Limited. The said Company owed to pay a sum of Rs.42,73,897/- to the complainant firm towards discharging the said liability. The complaint cheque dated 14.11.2014 was issued. When it was presented for collection, it was returned dishonoured. After completing the statutory formalities, the complainant filed S.T.C.No.94 of 2015 before the Judicial Magistrate, Fast Track Court, Theni. Cognizance of the offence was taken.

4. It is now stated that the trial in this case has already commenced and P.W.1 has also been examined.

5. This criminal original petition has been filed by accused Nos.3 to 6. Interim order was granted by this Court at the time of admission. Therefore, the case was split up and the case is being proceeded against accused Nos.1 and 2, namely, the Company and the Managing Director. As far as the petitioners are concerned, the case is pending in S.T.C.No.94 of 2015.

6. Heard the learned counsel on either side.

7. A mere look at the cause title is enough to show that the Director, namely, Shri.Kaliraj and Shri.R.Vasudevan have not been implicated in personal capacity. They have been made to represent the accused Company. That is why, the cause title of this criminal original petition also is on the same lines. Section 305 of Cr.P.C. states that when a Corporation is the accused person, it may appoint a representative for the purpose of enquiry or trial and such appointment need not be under the seal of the Corporation. In this



case, the Corporation has been named as the first accused in the private complaint. The complainant himself named the Managing Director Shri.Jegadesan, as the person in-charge of the accused company. Therefore, the question that the individual directors representing the Company is not necessary and is not in consonance with the statutory scheme set out in Section 305 of Cr.P.C.

8. The aforesaid directors, namely, Shri.K.Kaliraj, Shri.R.Vasudevan, Shri.L.Kamalakaran and Shri.J.Ramnarayan have not been implicated as accused in their personal capacity. When the complainant himself has not chosen to implicate them in their personal capacity, the question that they representing the Company will not arise because the Managing Directors is already representing the accused Company.

9. In this view of the matter, the impugned proceedings will have to be necessarily quashed. The criminal original petition stands allowed. S.T.C.No.99 of 2015 and S.T.C.No.94 of 2015 will of course go on against the accused Company and the Managing Director.

10. The Criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

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/ /2020

Sub Assistant Registrar(CS)

pmu

To

1. The Judicial Magistrate,
Fast Track Court, Theni.

2. The Section Officer, Criminal Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.P.SUBBARAJ, Advocate (SR-95412[F] dated 01/11/2019)

+1 CC to M/s.C.MUTHU SARAVANAN, Advocate (SR-95574[F] dated 01/11/2019)

CRL.O.P.(MD)No.10489 of 2015
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31.10.2019

MK (12.05.2020) 3P 5C

<https://hcservices.ecourts.gov.in/hcservices/>