IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.Nos.1077, 4237 & 4228 of 2020
and
Crl.MP.Nos.657, 659, 2439, 2440, 2431 & 2432 of 2020

Crl.OP.No.1077 of 2020

1.Adroit Automation India Private Limited,
Represented by its Directors / Authorized signatories,
Having Registered Office at,
D.No.4/1 B(1), Unjapalayam Road,
Kollupalayam Village, Kaniyur Post,
Coimbatore - 641 659
Tamilnadu.

2.Alagarasu Palanisamy

3.Lakshmana Perumal Sethu Thiru.Koodarajan ...Petitioners
Rep. by its Directors/Authorized Signatories

Vs.

United Steel Corporation,
The Partnership Firm Carrying its Business is
Is registered before the Government of Tamil Nadu,
in the Registrar of Firms in (REG No.528/2014),
Having its registered office at
No.60, Mugappair Road,
Padi, Chennai - 600 050.
Represented by its Manager & Power Attorney:-
Mr.Sanjay Modi,
Manager,
United Steel Corporation,
No.60, Mugappair Road,
Padi, Chennai - 600 050 ...Respondent

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PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records pertaining to the complaint in CC.No.322 of 2019 on the file of the Fast Track Court(Magistrate Level), Ambattur and quash the same.

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For Petitioners : Mr.C.K.M.Appaji

For Respondent : Mr.R.Muthukumar

Crl.OP.No.4237 of 2020

1.Adroit Automation India Private Limited,
Represented by its Directors / Authorized signatories,
Having Registered Office at,
D.No.4/1 B(1), Unjapalayam Road,
Kollupalayam Village, Kaniyur Post,
Coimbatore – 641 659
Tamilnadu.

2.Alagarasu Palanisamy

3.Lakshmana Perumal Sethu Thiru.Koodarajan ...Petitioners
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Vs.

United Steel Corporation,
The Partnership Firm Carrying its Business is
Is registered before the Government of Tamil Nadu,
in the Registrar of Firms in (REG No.528/2014),
Having its registered office at
No.60, Mugappair Road,
Padi, Chennai – 600 050.
Represented by its Manager & Power Attorney:-
Mr.Sanjay Modi,
Manager,
United Steel Corporation,
No.60, Mugappair Road,
Padi, Chennai – 600 050 ...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records pertaining to the complaint in STC.No.7 of 2020 on the file of the Fast Track Court(Magistrate Level), Ambattur and quash the same.

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For Petitioners : Mr.C.K.M.Appaji

For Respondent : Mr.R.Muthukumar

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Crl.OP.No.4228 of 2020

1.Adroit Automation India Private Limited,
Represented by its Directors / Authorized signatories,
Having Registered Office at,
D.No.4/1 B(1), Unjapalayam Road,
Kollupalayam Village, Kaniyur Post,
Coimbatore – 641 659
Tamilnadu.

2.Alagarasu Palanisamy

3.Lakshmana Perumal Sethu Thiru.Koodarajan ...Petitioners
Rep. by its Directors/Authorized Signatories

Vs.

United Steel Corporation,
The Partnership Firm Carrying its Business is
registered before the Government of Tamil Nadu,
in the Registrar of Firms in (REG No.528/2014),
Having its registered office at
No.60, Mugappair Road,
Padi, Chennai – 600 050.
Represented by its Manager & Power Attorney:-
Mr.Sanjay Modi,
Manager,
United Steel Corporation,
No.60, Mugappair Road,
Padi, Chennai – 600 050 ...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records pertaining to the complaint in STC.No.6 of 2020 on the file of the Fast Track Court(Magistrate Level), Ambattur and quash the same.

For Petitioners : Mr.C.K.M.Appaji

For Respondent : Mr.R.Muthukumar

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COMMON ORDER

These petitions have been filed to quash the proceedings in CC.No.322 of 2019, STC.No.7 of 2020 and STC.No.6 of 2020 on the file of the Fast Track Court(Magistrate Level), Ambattur initiated by the respondent for the offences punishable under Section 138 of NI Act as against the petitioners.

2. The learned counsel for the petitioners would

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submit that the respondent initiated proceedings as against the petitioners for the offences punishable under Section 138 of NI Act. On receipt of statutory notice by the petitioners and even before filing the complaint, the petitioners have settled the entire cheque amount to the respondent herein. It is also categorically admitted by the respondent in the complaint itself by stating that the petitioners did not pay the dishonoured cheque amount within the time of statutory period as stated in the statutory notice. Therefore, all the complaints are nothing but clear abuse of process of court and all the complaints are liable to be quashed.

3. The learned counsel for the respondent submitted that after issuance of the statutory notice dated 15.10.2019, the petitioners duly received the said notice on 17.10.2019. In the statutory notice, the respondent categorically stated that within the period of 15 days from the date of receipt of notice, the petitioners have to return the cheque amount. Whereas the petitioners have paid after the statutory period and as such the petitioners are liable to be punished for the offences under Section 138 of NI Act.

4. Heard Mr.C.K.M.Appaji, learned counsel for the petitioners and Mr.R.Muthukumar, learned counsel for the respondent.

5. The petitioners are accused in the complaint lodged by the respondent herein for the offences punishable under Section 138 of NI Act. According to the respondent they are doing Steels business, the first accused is Adroit Automation India Private Limited involved in the production of steel components and other accused persons are Directors of the first accused company. The respondent based on invoices supplied steel materials to the first accused company and in this connection they have to pay balance sum of Rs.8,16,989/-. Towards repayment of the said amount, the petitioners issued cheques in favour of the respondent herein and the said cheques were presented for collection and the same were returned dishonoured for the reason "payment stopped by drawer". The respondent caused legal notice on 15.10.2019 and the same was received by the petitioners on 17.10.2019. Even after receipt of the legal notice, the petitioners failed to repay the amount within the statutory period mentioned in the legal notice. Therefore, the respondent initiated proceedings under Section 138 of NI Act by complaint herein. On perusal of the records, the petitioners have settled the respective cheque amounts to the respondent on 15.11.2019 before initiation of the complaint by the respondent herein. It is also reflected in the statement of the accounts. According to the respondent, amount have not been paid within the statutory period as per the statutory

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notice. However, the respondent admitted the cheque amount was received by him. Even then, the respondent initiated proceedings for the offences punishable under Section 138 of NI Act.

6. Considering the above facts and circumstances of the case, all the complaints are nothing but clear abuse of process of court and are liable to be quashed.

7. Accordingly, these criminal original petitions are allowed, and the entire proceedings in CC.No.322 of 2019, STC.No.7 of 2020 and STC.No.6 of 2020 on the file of the Fast Track Court(Magistrate Level), Ambattur is quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

lok

To

The Judicial Magistrate,
Fast Track Court(Magistrate Level),
Ambattur

+1cc to Mr.CKM.Appaji, Advocate, S.R.No.28220

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MP(CO)
RN(06/11/2020)

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