

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2020

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.Nos.32277 and 32278 of 2013
and M.P.Nos.1 & 1 of 2014

1.M/s.Rohini Marketing Agencies

By its Partner
Mr.R.Pannerselvam
Rohini Hotels
G.N.Chetty Road, T.Nagar
Chennai-600 017

2.R.Pannerselvam

..Petitioners
in both Crl.O.Ps.

Vs

T.C.Gopalan

..Respondent in
Crl.O.P.No.32277/2013

V.G.Krishnan

..Respondent in
Crl.O.P.No.32278/2013

Prayer: Crl.O.Ps., filed under Section 482 of Cr.P.C., to call for the records and quash the complaint against the petitioner in C.C.Nos.4192 and 4191 of 2012 pending on the file of learned III Fast Track Metropolitan Magistrate, Saidapet, Chennai.

For Petitioners : Mr.C.Paul Kanagaraj
For Respondents : No appearance

COMMON ORDER

The respondents filed private complaint u/s.200 cr.p.c., against the petitioners for the offence u/s.138 of Negotiable Instruments Act on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai. The learned Magistrate has taken the complaints on file in C.C.Nos.4191 and 4192 of 2012 and sent summons to the petitioners. After receiving the summons, they filed the above petitions before this court invoking Section 482 Cr.P.C., to quash the complaints in C.C.Nos.4191 and 4192 of 2012 pending on the file of III Fast Track Court, Saidapet.

2. The learned counsel for the petitioners would submit

that no notice was served to the petitioners as per Section 141 of the Negotiable Instruments Act. Under Section 141 of N.I.Act, notice has to be issued to the Partnership Firm as well as the Partners whom the complainant wishes to arraign as an accused and as such, notice u/s.138(b) has not been issued to both the petitioners. Further, it is submitted that without mentioning in what capacity the said notice has been issued to the petitioners, cannot be equated to statutory notice u/s.138 (b) of N.I.Act. Therefore, on this ground also, the order of summoning is not correct. So without issuing notice as mandated u/s.138(b), Section 142 of N.I. Act, is not attracted. Therefore, complaints have to be quashed.

3. Heard the learned counsel for the petitioners and perused the records. None appeared on behalf of the respondents.

4. On careful reading of the complaints, it is apparent that the 2nd respondent filed complaints against the petitioners u/s.200 Cr.P.C., for offence under Section 138 and 141 of N.I. Act. In the complaint as well as the sworn statement, the respondents have clearly stated that notice was sent to the petitioners and the same was received by the petitioners and they also obtained the certificate of acknowledgement from the postal department. Therefore, whether the notice has been addressed to the proper person and whether notice has been served or not are all matters to be adjudicated before proper trial and not to be decided in the petition under Section 482 Cr.P.C., and this court has to see whether there is any prima facie allegation against the petitioners. On reading of the complaint, this court is of the view that there is prima facie allegation against the petitioners. Therefore, the defence taken by the petitioners cannot be decided at this stage. Therefore, in these circumstances, this court do not find any merit in these petitions. Accordingly, these criminal original petitions are dismissed. Consequently, connected Miscellaneous Petitions are closed.

5. Since the matter is pending from 2012, the learned Magistrate, Fast Track Court, Saidapet, is directed to dispose of the cases in C.C.Nos.4191 and 4192 of 2012, within three months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS-)

//True Copy//

Sub Assistant Registrar

nvsri

To

1. The learned Magistrate,
Fast Track Court, Saidapet.
2. The Section Officer,
Criminal Section, High Court, Madras.

Crl.O.P.Nos.32277 and 32278 of 2013

VSN II (CO)
GN (19/02/2020)



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