

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2020

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Cr1.O.P.No.32598 of 2013

Chaya Industries Limited
Represented by its
Managing Director/
Authorised Signatory

... Petitioner

Vs.

Alpha Primary School
Represented by the
Correspondent
Mrs.Grace George
Represented by
POA Thiagarajan

... Respondent

Prayer:

Petition filed under Section 482 of Cr.P.C., seeking to call for the records in C.C.No.10049 of 2008, on the file of the IX Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioner : Mr.R.Rajarajan

O R D E R

This petition has been filed seeking to call for the records in C.C.No.10049 of 2008, on the file of the learned IX Metropolitan Magistrate, Saidapet, Chennai and to quash the same.

2.The case of the petitioner is that the petitioner is a public limited company having its address at New Industrial Area, Kanjikode, Palakkad, Kerala and the domain of business is in the area of Kerala, Coimbatore and Tiruppur and never had any address in Chennai.

3.It is the further case of the petitioner that the respondent/ complainant lodged a complaint against the petitioner for the offence under Section 138 of the Negotiable Instruments Act stating that the petitioner agreed to sell the property at CIT Nagar and hence, the complainant gave an advance of Rs.30 Lakhs, however, the same was sold to third party. For

return of the advance amount, the petitioner is alleged to have given a Cheque bearing No.35441 dated 22.06.2007 drawn on UTI Bank and the said Cheque when presented was dishonoured. Challenging the said complaint, the petitioner has filed this petition.

4.The learned counsel appearing for the petitioner would submit that the complaint itself is vague and the allegations in the complaint does not attract the ingredients required for the offence under Section 138 of the Negotiable Instruments Act. He would further submit that the complaint does not specifically state that the property in the CIT Nagar stands in the name of the petitioner and hence, there is no liability for the company to discharge.

5.The learned counsel appearing for the petitioner would further submit that the property in CIT Nagar stands in the name of the individual one Ragunathan/ A2 and the petitioner Company is not in anyway involved in the transaction and would further submit that since there is no liability for the company to discharge, the Cheque issued would not attract the ingredients required for the offence under Section 138 of the Negotiable Instruments Act. Accordingly, he prayed for allowing the criminal original petition.

6.Though this criminal original petition is of the year 2013, till date, no notice was ordered. After a lapse of nearly seven years, this Court finds that no useful purpose would be served in ordering notice to the respondent. Hence, this Court decides to peruse the materials available on record and to dispose of the criminal original petition.

7.This Court heard the submissions of the learned counsel appearing for the petitioner and perused the entire materials placed on record.

8.The complaint would disclose that the complainant approached the accused to purchase the land situated in West CIT Nagar for the purpose of extending the School campus. After deciding the total sale consideration, the accused demanded an advance of Rs.30 Lakhs towards sale consideration and due to the increase of market value of the property, the accused sold the property to third party. On coming to know about the same, the complainant requested the accused to return back the advance amount, thereby the accused issued the Cheque. The said Cheque when presented for collection was returned with an endorsement 'payment stopped'.

9.Perusal of the complaint further disclose that during the relevant point of time, one Ragunathan/ A2 was the Authorised Signatory of the petitioner Company. Though the petitioner claim that there is no transaction between the petitioner and the defacto complainant, the complaint discloses that A2 issued the Cheque in the capacity of the Authorised Signatory of the petitioner Company. Further, the issues raised in this petition are triable issues which can be canvassed before the Trial Court.

10.In view of the above, this criminal original petition is dismissed. However, liberty is granted to the petitioner to raise all the issues before the Trial Court. Consequently, connected miscellaneous petitions, if any, are closed.

Sd/-
Assistant Registrar(CJ Conf)

// True Copy //

Sub Assistant Registrar

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To

- 1.The IX Metropolitan Magistrate,
Saidapet, Chennai.
- 2.The Chief Metropolitan Magistrate,
Egmore, Chennai.
- 3.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

+1cc to R.Rajendran, Advocate, sr.No.6762.

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SSV(CO)
CSR: 24.02.2020

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