

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:31.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.1793 of 2020

Merilion Hi-Tec Vision Private Limited
Rep by H.Ashwin Khumar
S/o.V.K.Harihara Sharma
No.3/1, Sarvamangala Nagar,
3rd Street, Nanganallur,
Chennai-600 061.

...Petitioner

Vs.

M/s.Madras Cements Limited,
Rep by P.C.Vijay
Fourth Floor, 99-A,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-600 004.

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records and quash the proceeding in C.C.No.5342 of 2010 pending on the file of the Fast Track Court-IV, Magisterial Level at George Town.

For Petitioner : M/s.R.Pushpalatha
for M/s.L.Jayamalini
For Respondent : No Appearance

सत्यमेव जयते
O R D E R

This petition has been filed to quash the proceedings in C.C.No.5342 of 2010 pending on the file of the Fast Track Court-IV, Magisterial Level, George Town, Chennai. However, the petitioner already filed quash petition in Crl.O.P.No.27966 of 2011 by A2 and A4. This Court finds no merits in the quash petition and dismissed. However, the appearance of the petitioners namely A2 and A4 dispense with and directed the trial Court to complete the trial within the period of three months from the date of receipt of copy of the order by an order dated 29.06.2017. Even then, the trial Court did not comply the direction issued by this Court and even today trial not yet over and it is pending. Therefore, he also raised very same grounds

in the present quash petition. He also submitted that the P.W.1 was already examined in chief and did not enter for cross examination. Though, the petitioner was alleged to cross examine the P.W.1 on the petition filed for recall under Section 311 of Cr.P.C.

2. Heard the learned counsel appearing for the petitioner.

3. This Court directed the trial Court call for the report with regard to the pendency on C.C. By report dated 21.02.2020, the learned Magistrate, Fast Track Court No.IV, Chennai reported that the copy of the order was not communicated to the trial Court and also on the absence of the petitioner and other accused persons. The trial could not be completed within the time stipulated by this Court. On perusal of the order passed by this Court in CrI.OP.No.27966 of 2011 dated 29.06.2017 this Court held as follows:

"11. In the case on hand, it is the specific case of the respondent complainant that cement was delivered to the accused under invoices bearing Nos.004875, 004876 and 004885, dated 16.03.2010, 16.03.2010 and 17.03.2010 respectively and the accused were due and liable to pay a sum of Rs.1,29,000/- to the complainant, in respect of which the accused issued two cheques dated 19.03.2010 and 24.03.2010. The said liability is seriously disputed by the petitioners herein.

12. In the case on hand, the liability is disputed by the accused persons. That apart, it is also their plea that they are not involved in the day-to-day administration of the accused company. This controversy is to be adjudicated during trial by adducing evidence. That apart, the Hon'ble Supreme Court as well as this Court while considering the scope of the interference under Section 482 of Cr.P.C. has carved out certain principles and held that disputed question of fact has to be decided at the trial of the case when the parties adduce the evidence.

13. In such view of the matter, this Court finds no merits in this petition and accordingly, the same is dismissed. No costs. However, in the facts and circumstances of the case, this Court is inclined to dispense with the personal appearance of the

petitioners in C.C.No.5342 of 2010 on the file of the learned VII Metropolitan Magistrate Court, George Town, Chennai, except on occasions where the personal appearance of the petitioners is felt to be necessary by the Court below. The Court below is directed to dispose of the case within a period of three months from the date of receipt of a copy of this order. No. costs. Consequently, connected miscellaneous petition is closed."

Therefore, already this Court considered all the grounds raised by other accused persons and the same grounds raised here by the 3rd accused. In fact, the petitioner is also standing in the same footing on par with the A2 and A4. Therefore, this Court is not inclined to entertain this petition. The trial Court is directed to complete the trial within the period of three months from the date of receipt of copy of this order.

4. In view of the above discussion, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gbi

To

1. The Fast Track Court-IV,
Magisterial Level,
George Town, Chennai.
2. The Public Prosecutor,
High Court, Madras.

WEB COPY

CRL.O.P.No.1793 of 2020
and CrI.MP.No.1425 of 2020

AJS (CO)
KKV/19/12/2020