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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No. 10051 of 2018
and Crl.M.P.Nos.5135 and 5136 of 2018

1.R.Karunakaran Durairaj
2.S.Suthanthiravathi ... Petitioners/4th and 5th Accused

Vs.

D.Gowri ... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Cr.P.C., praying to call for the records relating to C.C.No.3704 of 2017 on the file of the Learned Fast Tract IV Metropolitan Magistrate, George Town at Chennai and quash the same against the Petitioners/4th and 5th Accused.

For Petitioners: Mr.V.Krishnamoorthy

For Respondent : No Appearance

O R D E R

This Criminal Original Petition has been filed to quash the proceedings under Sections 138 and 141 of the Negotiable Instrument Act, 1881 in C.C.No.3704 of 2017 on the file of the learned Fast Tract IV Metropolitan Magistrate, George Town at Chennai, as against the petitioners.

2. Learned counsel appearing for the petitioners submits that there are totally five accused, in which, the petitioners are arrayed as fourth and fifth accused. As far as the petitioners are concerned, they are no way connected with the transaction of the first accused company and they did not participate in the day-to-day affairs of the company. Simply, the complainant made bald and vague allegations in the complaint that the petitioners have participated in the day-to-day affairs of the company. Further, the petitioners are neither actively participated in the day-to-day affairs of the company nor the signatories to the cheque. Even according to the complainant, the second and third accused are the signatories to the cheque. Therefore, he prayed for quashment of the entire complaint.



3. The defacto complainant submitted that there are five allegations in the complaint as against both the directors and first accused company. Though the second and third accused are the signatories to the cheque, only it was the cheque issued on behalf of the first accused company.

4. Admittedly, all the other second to fifth accused are the directors of the company at the time of commission of offence, they are actively participated in the day-to-day affairs of the company and vicariously liable to be punished under Section 138 of the Negotiable Instrument Act, 1881.

5. Heard Mr.V.Krishnamoorthy, learned counsel appearing for the petitioners.

6. On perusal of the complaint, it is seen that the first accused company placed orders for purchasing of papers. On the basis of the orders placed by the first accused company, the second to fifth accused supplied the materials. After purchasing all the materials on behalf of the first accused company, the second and third accused signed the cheque for a sum of Rs.13,77,652 and issued towards liability of the first accused company. They have actively participated in the day-to-day affairs of the company. The contention of the learned counsel for the petitioners, is that the petitioners are not at all actively participated in the day-to-day affairs of the company at the time of commission of offence.

7. It is seen from the complaint that the second to fifth accused are placed orders for purchasing papers on behalf of the first accused company. There are specific allegations as against the accused persons, though the petitioners are not signatories to the cheque issued on behalf the first accused company, the second and third accused are being the authorised signatory to the cheque, they have issued cheque on behalf of the company. Therefore, all the accused vicariously liable to be punishable under Section 138 & 141 of the Negotiable Instrument Act, 1881 and therefore this Court is not entertain this criminal original petition.

8. However, considering the age of the petitioners, the personal appearance of the petitioners are dispensed with and they shall be represented by a counsel after filing appropriate application. The petitioners shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment. The Trial Court is directed to complete the trial within a period of six months from the date of receipt of a copy of this order.



9. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are also closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

dm

To

The Fast Tract IV Metropolitan Magistrate,
George Town, Chennai.

+1cc to Mr.V.Krishnamoorthy, Advocate Sr.23597

+1cc to Mr.L.Rajasekar, Advocate Sr.23736

CRL.O.P.No. 10051 of 2018
and Crl.M.P.Nos.5135 and 5136 of 2018

pvs[col]
srg 14/07/2020