

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.2806 of 2020
and Crl.M.P.Nos.1685 & 1686 of 2020

- 1.M/s.Chennai Jute Company,
represented by Akash Deep Agarwal
Managing Partner,
Ramanan Road, Near Elephant Gate,
Chennai-600 079.
 - 2.Akash Deep Agarwal,
S/o.Annil Kumar Agarwal,
Managing Partner,
Ramanan Road, Near Elephant Gate,
Chennai-600 079.
 - 3.Annil Kumar agarwal,
S/o.Sriram Bilas Agarwal, Partner,
Ramanan road, Near Elephant Gate,
Chennai-600 079.
 - 4.Manju Agarwal
S/o.Annil Agarwal, Partner,
Ramanan Road, Near Elephant Gate,
Chennai-600 079.
 - 5.Suraj Agarwal,
S/o.Annil Agarwal, Partner,
Ramanan Road, Near Elephant Gate,
Chennai-600 079.
- ... Petitioners/Accused

Vs.

M/s.Virksha Associates
represented by Mrs.Piramachi, Power of Attorney
Proprietrix,
W/o.P.Dhamodharan,
represented by Power Agent,
Mr.P.Damodharan,
S/o.Pungalllingam,
Door No.46, Jayalakshmi Nagar,
Thondamuthur Main Road,
Bharathiyar University-P.O,
Coimbatore.

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, praying to call for the records in CMP.No.6904/2019 in C.C.No.72/2014 and set aside the order dated 24.10.2019 passed by the Fast Track (Magisterial Level) No.2 at Coimbatore and direct the respondent/complainant to produce the documents enlisted in C.M.P.No.6904/2019 for the purpose of fair trial in C.C.No.72 of 2014.

For Petitioners : Mr.M.L.Toseph
For M/s Chennai Law Associates

For Respondent : M/s. S.Arivazhagan

O R D E R

This petition has been filed challenging the order passed in CMP.No.6904 of 2019 in C.C.No.72 of 2014 on the file of the Fast Track (Magisterial Level) No.2, Coimbatore, whereby, the said court dismissed the petition filed by the petitioners under section 91 Cr.P.C to produce the documents.

2.The learned counsel for the petitioners would submit that the petitioners are accused on the complaint lodged by the respondent for the offence under section 138 of N.I.Act. During the cross examination, P.W.1 categorically admitted that she can be able to produce the audited balance sheet till the year 2012. Further, the trial Court concluded that it is appropriate to direct the respondent to produce the bank statements of account for the year 2012 to 2014. Unfortunately, in the conclusion portion, the trial Court held that all the documents sought for by the petitioner under section 91 Cr.P.C are not relevant to the case on hand in the present case. He further submitted that the respondent is admittedly doing financial business for which, they ought to have filed the audited balance sheet for every year which is also categorically admitted by the petitioner in her cross examination. Even then, the trial Court dismissed the petition.

3. Per contra, the learned counsel for the respondent/complainant submitted that during her cross examination, she categorically deposed that the audited balance sheet can be produced only after the year 2012; since thereafter, the respondent did not file any return of income and as such, the trial Court rightly dismissed the petition filed by the petitioner under section 91 Cr.P.C. Insofar as bank statements of account of the year 2012 to 2014, they do not

reflect the transaction between the petitioners and the defacto complainant. In this regard, he also cited various judgement of this Court. The document sought for by the complainant are irrelevant to the complaint and those documents are not required to be produced by the complainant before the trial Court.

4. Heard the learned counsel for the petitioners and the learned counsel for the respondent.

5. On perusal of the evidence of PW1, she deposed that till the year 2012, the audited balance sheet can be produced and thereafter, no audited balance sheet, since the respondent did not file any return of income. Insofar as the bank statements of account are concerned for the year 2012-2014 can be produced before the trial Court. Insofar as the other documents are required to be produced by the petitioners are not relevant to the complaint and as such, the trial Court rightly rejected insofar as other documents are concerned. Therefore, the CMP.No.6904 of 2019 in C.C.No.72/2014 passed by the Fast Track (Magisterial Level) No.2, Coimbatore is partly set aside in respect of the bank statements of account alone for the year 2012-2014.

6. Accordingly, this Criminal Original Petition is partly allowed. Consequently, connected miscellaneous petitions are closed. Further, the respondent is directed to produce the statements of account from 01.04.2012 to 31.03.2014. The C.C is of the year 2014, the trial Court is directed to complete the trial and dispose the same within a period of three months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

To
The Fast Track (Magisterial Level) No.2,
Coimbatore.

+1cc to M/s.Chennai Law Associates, sr no.31197
+1cc to Mr.S.Arivazhagan, Advocate, sr no.31100

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NRJK (CO)
RMP (14/10/2020)