

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.4284 of 2020

and

Crl.M.P Nos.2453 & 2455 of 2020

Jyothi-59-Y

W/o.Regunathan

Director

M/s.Chaya Knitting Limited

Shed No.13, TEKIC, TEA Nagar

SIDCO, Mudalipalayam

Tirupur-641 606.

... Petitioner/5th Accused

Vs

1.S.Saroja, 42-Y

W/o.Selvam

M/s.Aravindh Traders

Rep. By her Manager/

P.A. Holder M.Mayilswamy

S/o.G.Marudhachalam

No.80-A, Bridgeway Colony

Tirupur-641 607.

...1st Respondent/Complainant

2. M/s.Chaya Knitting Limited

rep. by its Authorized Signatory

Leelakrishnan alias Neelakrishnan

3. Leelakrishnan alias Neelakrishnan

Authorized Signatory

M/s.Chaya Knitting Limited

4. Ponnusamy

Authorized Signatory

M/s.Chaya Knitting Limited

5. Mr.Regunathan

S/o.K.C.Thirunavukkarasu

Managing Director

M/s.Chaya Knitting Limited

Respondents 1 to 4 are having office

at Shed No.13, TEKIC, TEA Nagar

SIDCO, Mudalipalayam

Tirupur-641 606.

... Respondents/ Accused1 to 4

Prayer:Criminal Original Petition filed under Section 482 Cr.P.C. to direct the respondent to call for the records in STC No.1214/2006 on the file of the Judicial Magistrate-I, Tirupur and quash the same.

For Petitioner : No Appearance

For Respondents: No Appearance

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in S.T.C No.1214 of 2006 on the file of the Judicial Magistrate No.I, Tirupur.

2. Though the matter was listed on 21.07.2020, the learned counsel for the petitioner did not appear and as such the matter is posted today under the caption of dismissal. Even today, no one is represented on behalf of the petitioner.

3. On a perusal of records, it is found that the 1st respondent lodged a complaint as against the petitioner and others for the offence punishable under Section 138 of Negotiable Instruments Act alleging that the accused has credits with the 1st respondent by way of purchasing Hosier Yarn in which the accused have to pay a sum of Rs.59,02,620/-. In order to clear the said debt, the accused persons jointly signed and issued a cheque for a sum of Rs.7,07,520/-. When the cheque was presented for collection, it was returned as dishonoured for the reason "exceeds arrangements". Immediately she caused a statutory notice and lodged a complaint for the offence punishable under Section 138 of Negotiable Instruments Act. The petitioner is arraigned as 5th accused. The petitioner averred that he is only the honorary director of the 1st accused company and he is never responsible for the conduct and affairs of the 1st accused company. Therefore, the entire complaint has been lodged without any legal or factual basis and the same has been filed with malicious intention and only to harass the petitioner. Further, he averred that the entire allegations are vague and no specific allegations have been made as against the petitioner.

4. On a perusal of the complaint, in para-3, the complainant has categorically stated that in order to repay the amount to the complainant, the 2nd and 3rd accused jointly signed and issued a cheque to the complainant on behalf of the 1st accused company with the consent and convenience of the accused 4 and 5. Further, averred that the petitioner is also one of the directors of the 1st accused company and as such he is also vicariously liable to be punished for the offence under Section 138 of Negotiable Instruments Act. Therefore, the points raised by the petitioner are mixed question of facts and it cannot be considered under Section 482 of Cr.P.C. Therefore, this petition is devoid of merits.

5. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To
The Judicial Magistrate No.I,
Tirupur.

CrI.O.P.No.4284 of 2020
CrI.M.P Nos.2453 & 2455 of 2020

A.SK(06/10/2020)



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