

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 07.09.2020
CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.5387 of 2020
and Crl.M.P.Nos.3046 of 2020

1. M/s.Meenakshi Ammal Trust
Rep. by A.N.Radhakrishnan
Managing Trustee,
Registered office at B 931
69th Street, 11th Sector,
K.K.Nagar, Chennai - 600 0078.
 2. A.N.Radhakrishnan
 3. R.Gomathi
- ... Petitioners

Vs.

M/s.Sherisha Technologies Private Limited,
Represented by P.Arun
Registered Office at No.67,
Bazullah Road, T.Nagar,
Chennai - 600 017.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in C.C.No.10552 of 2018 pending on the file of the learned Metropolitan Magistrate (FTC-III) Saidapet unit, Chennai and quash the same.

For Petitioners: Mr.Masilamani, Senior Counsel
For Mr.M.Vishnu Venkatesh
For Respondent : No appearance

ORDER

This petition has been filed to quash the proceeding in C.C.No.10552 of 2018 pending on the file of the learned Metropolitan Magistrate (FTC-III) Saidapet, Chennai, thereby taken cognizance for the offence under Section 138 r/w 141 of Negotiable Instruments Act (herein after referred to as NI Act), as against the petitioners.

2. The learned Senior Counsel appearing for the petitioners submitted that the petitioners are accused in the

complaint lodged by the respondent for the offence under Section 138 r/w 141 of NI Act. He further submitted that the respondent lodged complaint alleging that the first petitioner trust was in need of funds and had approached the respondent for loan to the tune of Rs.4 crores. The respondent lent a sum of Rs.4 crores to the petitioners as loan by way of executing pro-note for the said sum. Towards repayment of the said amount with interest, the petitioners issued a cheque for a sum of Rs.5,25,00,494/- to the respondent. The said cheque was presented for collection and the same was returned dishonoured for the reason "fund insufficient". After causing statutory notice, the respondent initiated proceedings for the offence punishable under Section 138 r/w 141 of NI Act.

2.1. The learned Senior Counsel further submitted that the respondent filed complaint on 11.01.2018. On receipt of the summons, the petitioners had repaid the entire loan amount which was extended by the respondent herein, by way of transfer of funds through RTGS and other mode. Therefore, there is no legally enforceable debt exist between the petitioners and the respondent herein. In fact, they paid more than the cheque amount viz., Rs.5,75,00,000/- by way of RTGS. He further submitted that on 17.11.2018 a sum of Rs.5,00,00,000/- has been paid to the respondent from their banker viz., Punjab National Bank, K.K. Nagar Branch from the account No. 2510009300019837. Thereafter on 17.12.2018, further sum of Rs.35,00,000/- has been transferred by way of RTGS from their bank viz., Indian Bank, Valasarabakkam Branch, Chennai, in account No.854562730 to the respondent herein.

2.2. He further submitted that again on 17.12.2018 itself, another sum of Rs.40,00,000/- has been paid to the respondent through their bank. Therefore, totally the petitioners have paid a sum of Rs.5,75,00,000/- and even after receipt of the same, the respondent herein refused to withdraw the complaint. He further submitted that even after receipt of the notice from this Court in the present quash petition, the respondent engaged a counsel and thereafter the respondent's counsel never appeared before this Court for the past three hearings. Therefore, he sought for quashment of the proceedings.

3. Heard Mr.Masilamani, learned Senior Counsel appearing for the petitioners. Though a counsel entered appearance on behalf of the respondent, no one is appeared by person or through pleader.

4. The respondent lodged complaint for the offence punishable under Section 138 r/w 141 of NI Act as against the petitioners. On perusal of the complaint, it is seen that the

petitioners have borrowed a sum of Rs.4 crores by executing promissory note. To repay the said amount, the petitioners have issued cheque for a sum of Rs.5,25,00,494/- along with interest. The said cheque was presented for collection and the same was returned dishonored for the reason "funds insufficient". After causing statutory notice, the respondent initiated proceedings for the offence under Section 138 r/w 141 of NI Act.

5. The learned Magistrate after having taken cognizance, issued summons to the petitioners on 11.01.2018. On receipt of the summons, the petitioners repaid the entire cheque amount along with further interest on the following mode:-

i) On 17.11.2018, the petitioners transferred a sum of Rs.5,00,00,000/- through RTGS by five transfers each for Rs.80,00,000/- from the petitioners' bankers viz., Punjab National Bank, K.K.Nagar Branch, Chennai, bearing account No.2510009300019837 to the respondent viz., Sherisha Technologies Private Limited.

ii) On 17.12.2018, a sum of Rs.35,00,000/- has been transferred to the respondent viz., Sherisha Technologies Private Limited through cheque bearing No.527023 by the petitioners' banker viz., Indian Bank, Valasaravakkam Branch, Chennai.

iii) Again on 17.12.2018 a sum of Rs.40,00,000/- has been transferred to the respondent's account through RTGS by their banker viz., Finacle Universal Banking Solutions.

Therefore, totally a sum of Rs.5,75,00,000/- has been transferred to the respondent's account. Even after receipt of the same the respondent failed to withdraw the complaint and also did not appear before the trial Court. In fact, even before this Court, though a counsel entered appearance on behalf of the respondent, no one is appeared by person or through pleader before this Court. It shows that the respondent does not want to pursue the complaint, since the entire amount has been received by the respondent herein. Therefore, this Court feels that the pendency of this complaint would not serve any purpose and it is clear abuse of process of Court.

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6. Accordingly, this Criminal Original Petition stands allowed and the proceedings in C.C.No.10552 of 2018 pending on the file of the learned Metropolitan Magistrate (FTC-III) Saidapet unit, Chennai, is hereby quashed. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

rts

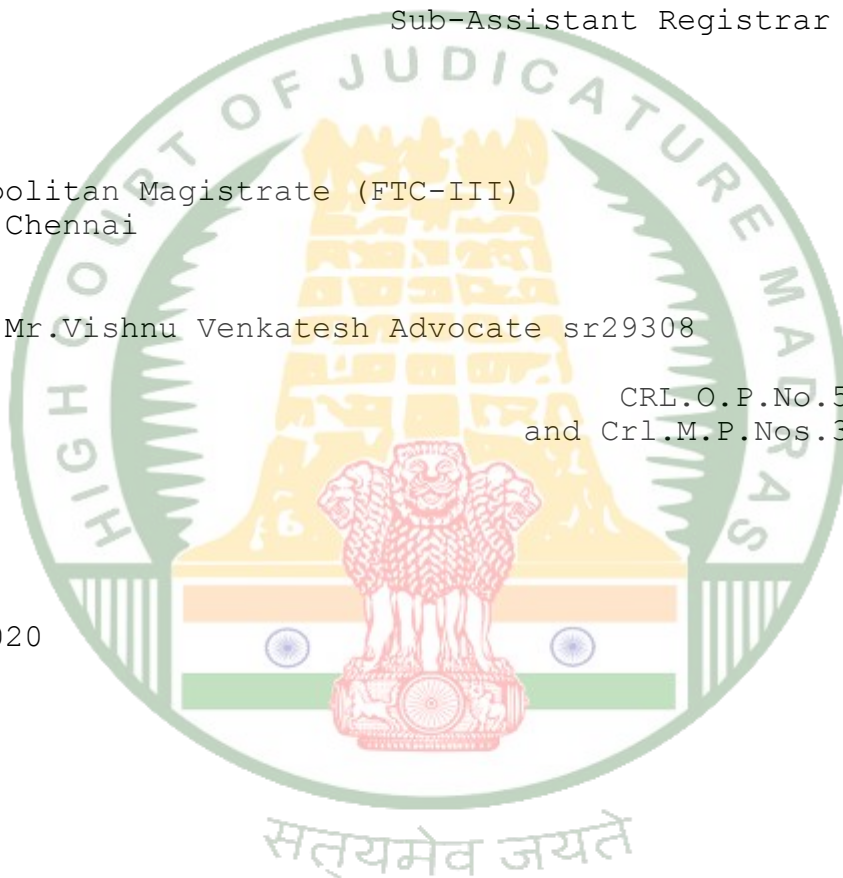
To

The Metropolitan Magistrate (FTC-III)
Saidapet, Chennai

+2 ccs to Mr.Vishnu Venkatesh Advocate sr29308

CRL.O.P.No.5387 of 2020
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