

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.10097 of 2019

V.Natanasabapathy

...Petitioner

Vs.

1. M/s.VSIGMA SOFTECH SOLUTIONS PRIVATE LTD.,  
Rep. by its Managing Director Mr.C.Venkatesh,  
Office: AL-85, "H" Flat, Sindhu Apartment,  
fourth Street, 12th Main Road, Shanthi Colony,  
Chennai-600 040.
2. Mr.C.Venkatesh,  
Managing Director,  
M/s.VSIGMA SOFTECH SOLUTIONS PRIVATE LTD.,  
Office: AL-85, "H" Flat, Sindhu Apartment,  
fourth Street, 12th Main Road, Shanthi Colony,  
Chennai-600 040.
3. M/s.Om Associates,  
Rep. By its President/Secretary/Treasurer: Mr.C.Venkatesh,  
AJ-31, Flat-I, Indira Apartment,  
5th Street, 10th Main Road,  
Shanthi Colony, Anna Nagar,  
Chennai-600 040.

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to direct the learned II Fast Track Court Magistrate, Egmore (at Allikulam) to number the Calendar Case in C.C.SR.No.160 of 2019 and to proceed with the complaint in accordance with law.

For Petitioner : Mr.M.Selvaraju  
For Respondent : Mr.K.Elangovan

O R D E R

This petition has been filed seeking for a direction directing the learned II Fast Track Court Magistrate, Egmore, Allikulam, to number the CC filed as against the accused persons.

2.It is seen that the petitioner lodged complaint as against the respondents 1 to 3 for the offence punishable under sections 138 and 142 of Negotiable Instrument Act. The said complaint was returned on 05.03.2019 for the following reasons.

"1. The arrangement of the accused is not proper in clean copy also. The A1, A2's arrangement is unnecessary as the cheque is not issued by M/s.VSIGMA Softtech Solutions (P) Ltd.,

2. The prosecution in under section 138 of NI Act can only be initiated against the drawer of cheque only.

3. The person unconnected in issuance of cheque, though they are subject in the transaction, cannot be prosecuted.

4. The Cheque belongs to "Om Associates", hence the proper person to be prosecuted are the (i) Om Associates (ii) the persons connected with the commitment of offence as contemplated under section 141 of the NI Act."

3.On perusal of the complaints, the third respondent herein issued the cheque dated 22.12.2017 for a sum of Rs.11 Lakhs in favour of the petitioner herein. Even then, the petitioner impleaded the first and second respondent as accused in the complaint and admittedly the first and second respondents are different legal entity and they did not issue the cheque to the petitioner herein. Therefore, the petitioner is directed to delete the first and second accused in the complaint and include the third respondent and other directors if any who are actively participated in the company or whom associates represent the company, within a period of two months from the date of receipt of a copy of this order.

4.On receipt of the same, the learned II Fast Track Court Magistrate, Egmore, is directed to take cognizance on the complaint lodged by the petitioner, if it is otherwise in order.

5. With the above direction, this Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mpa

To

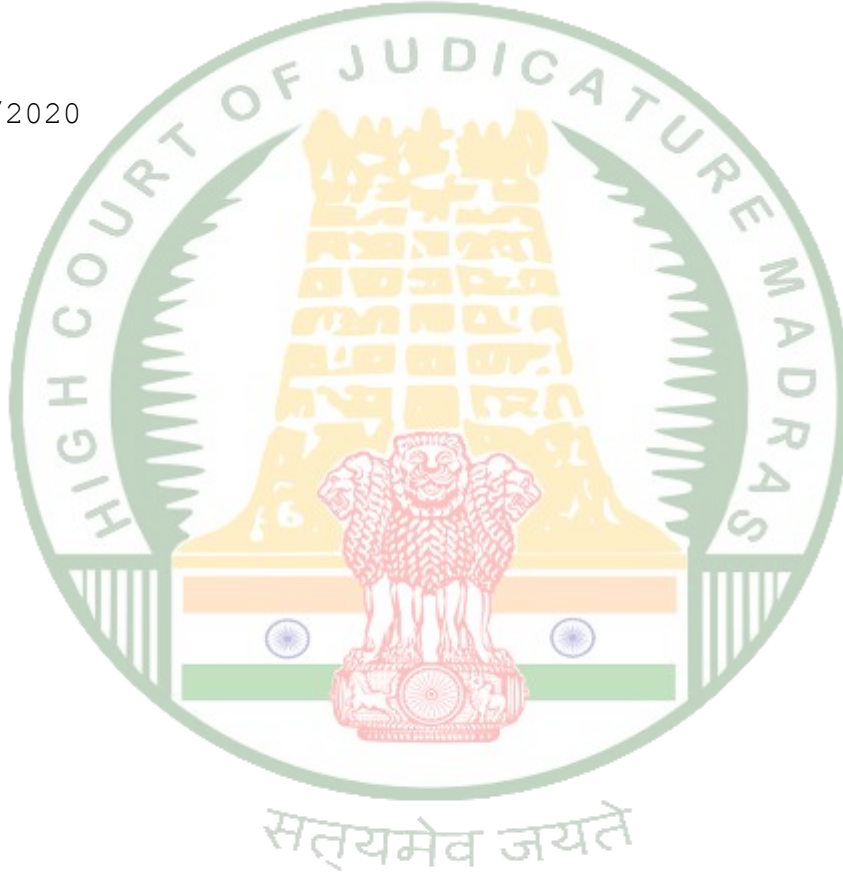
1.The Metropolitan Magistrate,FTC at Magisterial Level II,  
Egmore, Allikulam.

2.The Public Prosecutor,  
High Court, Madras, Chennai.

+1cc to Mr.K.Elavgovan, Advocate, S.R.No.24867

CrI.O.P.No.10097 of 2019

PA(CO)  
KKV/14/08/2020



WEB COPY