

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2020

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

Crl.O.P.No.18062 of 2020

and

Crl.M.P.Nos.7081 & 7082 of 2020

1. M/s. Hexter Pharmaceuticals Pvt Ltd,
Rep. By R.Anbazhagan,MD,
S/o, R.K.Ramadoss,
No.54, 1st Floor, 1st Main Road,
Nanganallur,
Chennai 600 061.
 2. R. Anbazhagan,
Managing Director,
S/o, R.K.Ramadoss
 3. A.Kannan
Director,
S/o, Alagarsamy
 4. B.V.Rajan
Director,
S/o, Venkatachalapathy
- 2 to 4 at M/s. Hexter Pharmaceuticals Pvt Ltd,
No.54, 1st Floor, 1st Main Road,
Nanganallur,
Chennai 600 061.

सत्यमेव जयते

-Vs-

...Petitioners

Vijayaraghavan
S/o, A.Anandakrishnan,
27, 7th Cross street,
AF-4, Guru Paradise,
Hindu Colony,
Nanganallur,
Chennai 600 061.

... Respondent

Prayer:

Criminal Original Petition filed under section 482 of Criminal Procedure Code, to set aside the order passed by the Judicial Magistrate, Fast Track Court, Alandur of dismissing the 91 Cr.P.C. Petition filed in Criminal MP No.2894/2019 in CC No.140 of 2017 by its order dated 18.03.2020.

For Petitioners : Mr.L.Sriram

ORDER

The petitioners who are accused in C.C.No.140 of 2017 on the file of the Judicial Magistrate, Fast Track Court, Alandur, has preferred the Criminal Original Petition, assailing the order dated 18.03.2020 passed in C.M.P.No.2894 of 2019 in C.C.No.140 of 2017. The case has been laid against the petitioners/accused for the offence punishable under section 138 of the Negotiable Instruments Act in C.C.No.140 of 2017. Pending trial, it is noted that the petitioners had preferred a petition in C.M.P.No.2894 of 2019 under section 91 Crpc for seeking a direction to the respondent to produce the documents prayed for by them as enumerated in the petition. According to the petitioners, the respondent during the cross examination, had admitted the issuance of cheques worth about Rs.4,50,000/- by the petitioners and hence for the adjudication of the case in C.C.No.140 of 2017, the said cheques should be directed to produce by the respondent. Further it is putforth that the respondent during the course of cross examination has also admitted that a case under Insolvency and Bankruptcy Code had been preferred by him before the National Company Law Tribunal against A1 in respect of the money due to him and therefore R1/complainant should be directed to file the copy of the abovesaid petition along with the typedset filed before the National Company Law Tribunal.

2. The abovesaid petition preferred by the petitioners/accused had been stiffly resisted by the respondent/complainant contending that the cheques issued for Rs.4,50,000/- has nothing to do with the cheque involved in the present C.C.No.140 of 2017 levelled by him and when the present Calendar case is in respect of the cheque issued for a sum of Rs.50,000/- and furthermore, when the petitioners have also not come forward as to the issuance of the cheques amounting to Rs.4,50,000/- and also not furnish the particulars of the cheques alleged to have been issued by them, in such view of the matter, it is putforth that the petition laid by the petitioners/accused is only intended to drag on the proceedings endlessly and therefore the said documents need not be produced.

Further it is averred that the proceeding leveled by the respondent/complainant before the National Company Law Tribunal has nothing to do with the present Calendar case and if at all, according to the petitioners/accused, the petition and the typedset filed in the abovesaid case before the National Company Law Tribunal are relevant to the Calendar Case, nothing prevented the petitioners from applying for the certified copy of the said documents and produce the same in the manner known to law. In toto, the respondent contended that the petition had been laid by the petitioners only to delay the proceedings endlessly and therefore sought for the dismissal of the petition.

3. The Court below, on a consideration of the rival contentions by the respective parties, opining that the petitioners would be entitled to get the certified copy of the documents filed before the National Company Law Tribunal and also the petitioners not mentioning about the necessity of requisite documents as prayed for by them, resultantly declined to entertain the petition preferred by the petitioners and dismissed the same. Impugning the said order, the present Criminal Original Petition has been laid.

4. The cheque involved in C.C.No.140 of 2017 is only for a sum of Rs.50,000/-. From the materials placed on record, it is found that the petitioners have admitted the issuance of the cheque in question, in favour of the respondent. According to them, the said cheque has been issued only as security. It is the bounden duty of the petitioners/accused to establish the aforesaid defence plea. In such view of the matter, the issuance of the other cheques amounting to Rs.4,50,000/- even assuming to be true, when the cheques are found to be totally alien to the cheque in question involved in the calendar case and when the petitioners have also not given details of the cheques in question and also not admitted that they have issued such cheques in favour of the respondent, in such view of the matter, the case of the petitioners that the respondent should be directed to produce the various cheques amounting to Rs.4,50,000/- has no nexus to the present Calendar Case and therefore it is noted that the trial court had rightly rejected the abovesaid request of the petitioners.

5. As regards the production of the records laid before the National Company Law Tribunal, if those documents, according to the petitioners are relevant for the adjudication of the Calendar Case, nothing prevented them from obtaining the certified copies of the said documents and in such view of the

matter, also when the petitioners have not placed any reason for the production of the said documents as being vital for the adjudication of the Calendar Case, the trial court has rightly declined the request of the petitioners calling for the production of the documents filed before the National Company Law Tribunal.

6. In the light of the abovesaid factors, I do not find any error or infirmity in the impugned order passed by the Court below. Resultantly, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are also closed.

sd/

ASSISTANT REGISTRAR

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

mfa

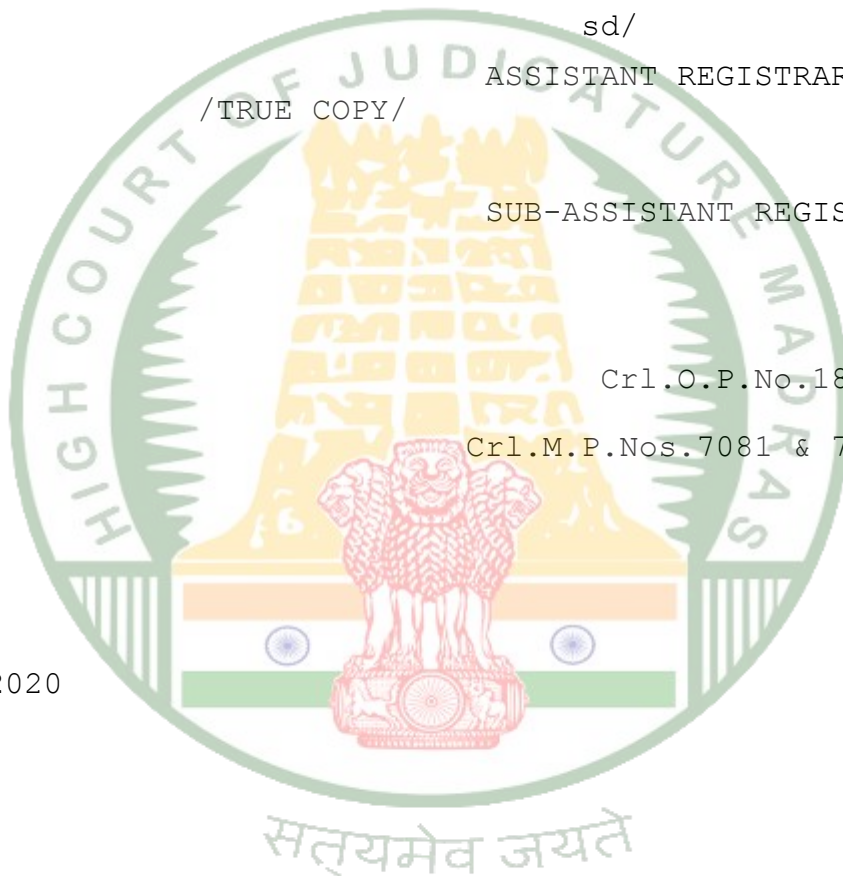
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