

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2020

CORAM

THE HONOURABLE Mr. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.3140 of 2017

and

Crl.MP.Nos.2268 and 2269 of 2017

Atulsa

...Petitioner/Accused

- Vs -

Jai Shritrading Corporation,
Rep by Mr.Jasraj M.Khandelwal,
No.12A, Vijai Centre,
No.65, Oppanakara Street,
Coimbatore - 01.

...Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., praying to call for the records and quash the complainant in C.C.No.1621 of 2014, on the file of the learned Judicial Magistrate, Fast Track No.I, Coimbatore.

For Petitioner : Mr.R.Subburaj

O R D E R

This Criminal Original Petition has been filed to call for the records and quash the complainant in C.C.No.1621 of 2014, on the file of the learned Judicial Magistrate, Fast Track No.I, Coimbatore.

2. The defacto complainant submits that during the course of the business, the accused had purchased Sarees on 21.05.2012 vide bill No.42 and 43 on 30 days credit basis. The total bill amount is Rs.5,63,990/- (Rupees five lakhs sixty three thousand nine hundred and ninety nine only). As per the terms of the contract, the accused failed to pay the bill amount within a period of 30 days from the date of bill, the accused is liable to pay 24% interest per annum for the bill amount. The defacto complainant states that despite several request of the respondent, the petitioner was avoiding the payment and finally commitments given by the petitioner and

agreed to pay Rs.3,04,359/- towards interest at final amount of Rs.8,68,349/- as on 20.09.2014 was agreed. The complainant stated that an repeated demands the accused issued a cheque for a sum of Rs.8,68,349/- bearing No.972425, dated 20.09.2014 in favour of the respondent/complainant drawn on Tamil Nadu Mercantile Bank, R.S.Puram Branch, Coimbatore. When the cheque dated 22.09.2014 was presented, the same was returned for the reason "Funds Insufficient". Thereafter, statutory notice was issued to the respondent for which an initial reply was given and later, a detailed reply was sent following the statutory principles, the case was filed under Section 138 of Negotiable Instruments Act.

3. The learned counsel for the respondent submitted that the petitioner suppressing the earlier dismissal of quash petition by this Court in Crl.O.P.No.19028 of 2015, dated 27.07.2015 had filed this petition and in this petition, at Paragraph No.6, it has been specifically stated that there is no other quash petition is pending before any other Court. He further submitted that originally the case was filed in C.C.No.1621 of 2014, before the Judicial Magistrate No.I, Coimbatore, later transferred to Fast Track Court No.I, Coimbatore and re-numbered as C.C.No.142 of 2015. The petitioner after dismissal of the quash petition on 27.07.2015 filed this quash petition. Seeking quashing of C.C.No.1621 of 2014, knowing well by then C.C.No.1621 of 2014 got transferred to Fast Track Court No.I, Coimbatore and re-numbered as C.C.No.142 of 2015, which clearly shows that he knowingly suppressed the earlier dismissal of the quash petition, further due to the pendency of the above quash petition, the trial Court proceedings has been successfully stalled from the year 2014 onwards. He further submitted that the petitioner as well as the counsel cannot feign ignorance now about the dismissal of the earlier quash petition and sought direction from this Court for completion of the trial within stipulated time and to impose exemplary costs for the suppressing the facts and to take necessary action against the petitioner.

4. It is also seen that in this case PW.1 already examined in chief and evidence closed on 25.11.2016. Thereafter, suppressing these facts, the present petition has been filed, the petitioner undertakes to appear before the trial Court without fail on 30.09.2020. The petitioner suppressing the earlier dismissal of quash petition had not approached this Court with clean hands. Further the counsel for the petitioner submits that he was not informed of the earlier dismissal, by the petitioner and the instructing counsel. In view of the same, the petitioner for suppressing the earlier quash petition

is imposed a cost of Rs.25,000/- (Rupees twenty five thousand) to the Coimbatore Bar Association. The payment proof to be submitted before the trial Court without any further delay, failing which appropriate proceedings will be initiated against the petitioner.

5. The trial Court is directed to complete the trial within a period of one month from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar(CS III)

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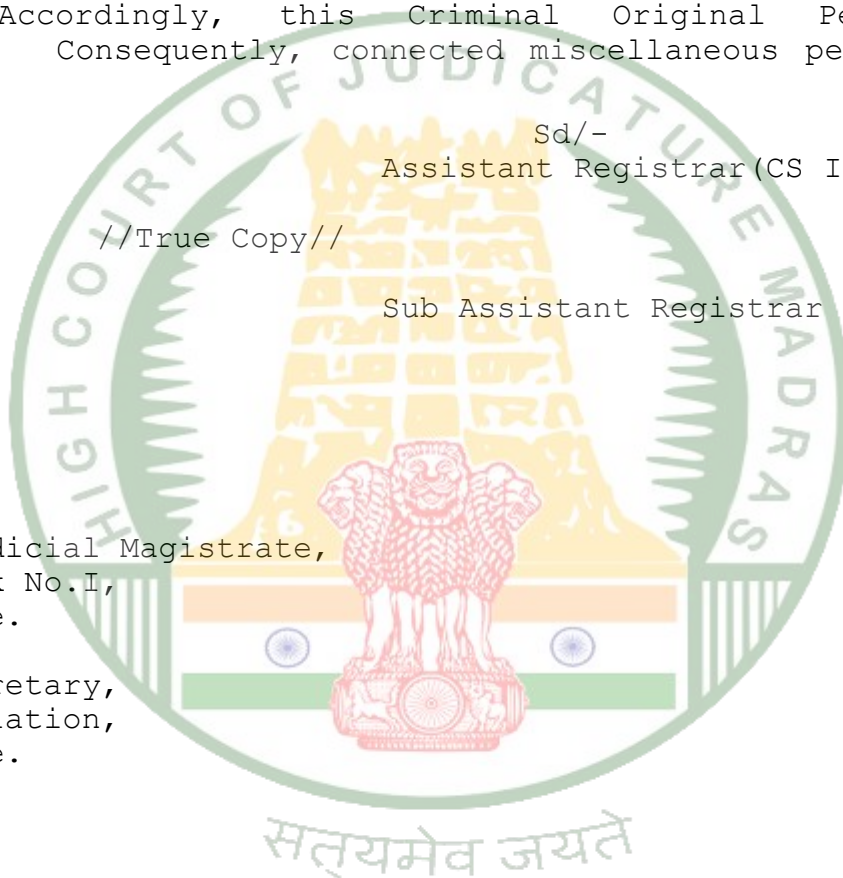
Sub Assistant Registrar

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To

1.The Judicial Magistrate,
Fast Track No.I,
Coimbatore.

2.The Secretary,
Bar Association,
Coimbatore.



Cr1.O.P.No.3140 of 2017

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