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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2020

CORAM:

THE HONOURABLE **MR. JUSTICE A.D. JAGADISH CHANDIRA**

Crl.O.P. (MD) No.2384 of 2020

and

Crl.M.P. (MD) Nos.1219 and 1220 of 2020

1.M/S.Gigabyte Infotech,
Represented by its Proprietor,
Mr.Kamlesh Kumar Sinha,
Shop No.27, 1st Floor,
Dukhan Ram Plaza,
Exhibition Road, Patna-800 001.

2.Kamlesh Kumar Sinha : Petitioners/Accused

Vs.

M.S/Redington (India) Limited
Represented by Mr.Barani Yadav
Legal Executive,
C-48 B, First Floor, 11th B Cross Road,
Thillai Nagar, Trichy-620 018. : Respondent/Complainant

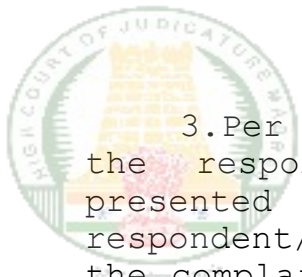
PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the impugned complaint in S.T.C.No.740 of 2018 on the file of the Judicial Magistrate No.IV, Tiruchirappalli and quash the same.

For Petitioners : Mr.R.S.Sivaram
For Respondent : Mr.D.Selvanayagam

ORDER

This Criminal Original Petition has been filed to quash the proceedings in S.T.C.No.740 of 2018 on the file of the Judicial Magistrate No.IV, Tiruchirappalli.

2.The learned counsel appearing for the petitioners would submit that the security cheques have been misused by the respondent/complainant. He would further submit that the entire transactions took place at Bihar, but the complaint has been filed at Trichy. He would further submit that the petitioners are innocent persons and they have been falsely implicated in this case with oblique motive and hence, sought for quashment of the proceedings.



3.Per contra, Mr.D.Selvanayagam, learned counsel appearing for the respondent/complainant would submit that the cheque was presented for collection by the branch office of the respondent/complainant and thereby, there is a jurisdiction to file the complaint before the Court at Trichy and the trial Court having found that the complaint was filed within the Court having jurisdiction, has taken cognizance.

4.This Court is of the view that all the grounds can be raised before the trial Court and there is no merit in the quash petition.

5.At this juncture, the learned counsel appearing for the petitioners would submit that the petitioners are residing at Batna in Bihar and their presence before the trial Court may be dispensed with unless and otherwise their presence is required for progress of trial. He would further submit that earlier this Court while ordering recall of warrant, by order dated 13.12.2019 made in CrI.O.P.(MD).No.18690 of 2019, had directed the Judicial Magistrate No.IV, Tiruchirapalli to complete the trial within a period of six Months from 03.01.2020. He would pray that a direction may be issued to the concerned Magistrate to give sufficient opportunity to the petitioners to defend their case. He would further submit that there are certain documents, which are in Bihar Vernacular Language and that due opportunity may be given to the petitioners to translate the same.

6.Accepting the said submission, the presence of the petitioners before the trial Court shall be dispensed with on condition that they shall be present on the first day of appearance , on the date fixed for receiving the copies, initial questioning, reply to charges and questioning under Section 313 of Cr.P.C., and at the time of passing judgment and whenever insisted upon by the trial court.

7.The petitioners are further directed to give an undertaking in the form of affidavit that they will be duly represented by a counsel on all hearing dates and that the Counsel representing them will cross examine the prosecution witnesses on the same day they are examined in chief or on the next day fixed by the trial Judge. The petitioners shall not dispute the identity of the witnesses. The petitioners shall appear before the Court in the event their presence is insisted by the trial judge for the purpose of identification. If the petitioners adopts any dilatorial tactics, it is open to the Trial Court to insist for their appearance and deal with the petitioners in accordance with the judgment of Supreme Court of India, **in State of Uttar Pradesh Vs. Shambunath Singh**, reported in **2001 (4) SCC 667. 4) SCC 667. SCC 667.**



8. Accordingly, this Criminal Original Petition dismissed. However, the learned Judicial Magistrate No.IV, Tiruchirapalli is directed to give sufficient opportunity to the petitioners in accordance with law. Consequently, connected Miscellaneous Petition in CrI.M.P(MD) No.1219 of 2020 stands closed and CrI.M.P(MD) No.1220 of 2020 stands ordered.

Sd/-

Assistant Registrar(CS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsg

To

The Judicial Magistrate No.IV,
Tiruchirappalli .

+1 CC to M/s.D.SELVANAYAGAM, Advocate (SR-6195[F] dated
13/02/2020)

CrI.O.P. (MD) No.2384 of 2020
and

CrI.M.P. (MD) Nos.1219 and 1220 of 2020
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