



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2021

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

CrI.O.P.No.752 of 2019

and

CrI.M.P.No.490 of 2019

Vijayakumar Mathangi

...Petitioner/Accused No.3

Vs.

M/s.D.S.A.Motors rep.by
its Managing Partner D.S.Aqbal,
M/A-53 years, Office at 18/4K & 171 D1F,
Krishnagiri Main Road,
Dharmapuri Taluk,
Dharmapuri District.

...Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.6 of 2017 on the file of Learned Judicial Magistrate - I, Dharmapuri and quash the same.

For Petitioner : Mr.S.N.Arunkumar

For Respondent : Mr.C.Prabhakaran

O R D E R

This Criminal Original Petition has been filed to call for the records in C.C.No.6 of 2017 on the file of Learned Judicial Magistrate - I, Dharmapuri and quash the same.

2. The learned counsel for the petitioner has submitted that the petitioner was not in-charge of the affairs of the company at the time when the cheque was issued and hence, the complainant has not satisfied the requirements of Section 145 of Negotiable Instruments (N.I.) Act. Further, he drew the attention of this Court to the averments made in the complaint that the petitioner was the erstwhile Managing Director of the Company. He further contended that the petitioner is not the person who issued a cheque and hence, no criminal action can be initiated against him for the offence under Section 138 of N.I. Act.



3. The learned counsel for the respondent submitted that the petitioner was a person in-charge of affairs of the company and he would very much liable to face the prosecution.

4. On perusal of the records, it is seen that the petitioner is not making any bald allegation but he has produced some fundamental facts to file a case under Section 138 of N.I. Act. The fact whether the petitioner was in-charge of the company at the time when the cheque was issued is a question of fact, which can be decided only before the trial Court by producing relevant materials to prove the same. The said point can at the best be the defence of the petitioner but cannot be a ground for quashing the proceedings.

5. Hence, this petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

Pns

To:

1. The Learned Judicial Magistrate - I,
Dharmapuri.
2. Do Thro The Chief Judicial Magistrate,
Dharmapuri.

+1cc to Mr.S.N.Arunkumar, Advocate, S.R.No.55495
+1cc to Mr.C.Prabakaran, Advocate, S.R.No.54502

Cr1.O.P.No.752 of 2019
and
Cr1.M.P.No.490 of 2019

RLD(CO)
RGA(22/11/2021)