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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2021

CORAM:

THE HON'BLE MR.JUSTICE V. BHARATHIDASAN

CRL.O.P.No.27775 of 2015

and

M.P.Nos.1 & 2 of 2015

1. P. Ram Shankar
2. P. Bhagyawathi
3. Madhumitha

... Petitioners/Accused 3 to 5

Versus

M/s . Maris Spinners Ltd.,
rep. by its Accounts Manager,
C.Srinivasan,
No.11, Cathedral Road,
Chennai 600 086

...Respondent/Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Cr.P.C. to call for the records relating to C.C.No.368 of 2015 on the file of the Judicial Magistrate Court No.II, Coimbatore and quash the same.

For Petitioner : Mr. Sriram,
for K. Govi Ganesan
For Respondent : Mr. L. Rajasekar

ORDER

This Criminal Original Petition has been filed to quash the complaint filed under Section 138 of Negotiable Instruments Act in C.C.No.368 of 2015 on the file of the Judicial Magistrate Court NO.II, Coimbatore.

2. The petitioners are arrayed as A3 to A5. The case of the complainant is that, the accused purchased cotton yarn from the respondent/complainant on credit basis and they were maintaining a running account. As on 31.01.2015, there was a balance due of Rs.29,74,860/-. In order to discharge the liability, the accused persons issued cheques in favour of the complainant and when the same was presented for collection, it was returned as "Exceeds Arrangement". Thereafter, after completing all the statutory formalities, the complaint has been filed. To quash the same, the petitioners/A3 to A5 are before this Court with this Criminal Original Petition.



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3. The learned counsel for the petitioners would submit that the petitioners are not incharge or responsible to the day to day affairs of the Company and absolutely there is no averment in the complaint to that effect. Hence, the complaint cannot be maintained as against the petitioners.

4. Heard both sides and perused the materials available on records carefully.

5. From the perusal of the complaint, it is seen that the respondent/complainant has specifically averred that the petitioners herein are actively participated in the day to day affairs of the company. The relevant portion of the complaint reads as follows:-

"3. The second accused is Managing Director of the First Accused Company and Signatory to the Cheque. The Second Accused is incharge of finance of the First Accused Company. The Third Accused is incharge of production of the First Accused Company, Fourth Accused is incharge of the general administration of the First Accused Company and the Fifth accused is incharge of procurement and research and development of the first accused company "

There is a specific averment in the complaint that the petitioners were actively participated in the day to day affairs of the company, they are responsible persons for the conduct of the business of the company, and they are also deemed to be committed the offence as per Section 141 of the Negotiable Instruments Act. It is for the petitioner to establish before the trial Court that they are not incharge of the day to day affairs of the company. The judgments relied upon by the counsel for the petitioners, in support of his contention, are not relevant to the facts of this case. Hence, this Court finds no merits in the petition and the same is liable to be dismissed.

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

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mrp



To

The Judicial Magistrate Court No.II,
Coimbatore

+1cc to Mr.K.Goviganesan, Advocate SR.No.62429

+1cc to Mr.L.rajasekar, Advocate SR.No.62546

CRL.O.P.No.27775 of 2015

SVI (CO)
GN (13/12/2021)