



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.5190 of 2018

And

Crl.M.P.Nos.2569 and 2570 of 2018

S. Uma Maheshwari

... Petitioner

Vs.

M/s Golden Impex
represented by its
Power of Attorney Holder
K.P.K. Balasubramaniam
S/o K.P. Krishnan
Sri Devi Complex,
No.74, Eswaran Koil Street,
Tirupur.

... Respondent

Prayer:

Petition filed under Section 482 of Cr.P.C., seeking to call for the records pertaining to C.C.No.83 of 2017 on the file of the Fast Track Court at Magisterial Level, Tiruppur and quash the same.

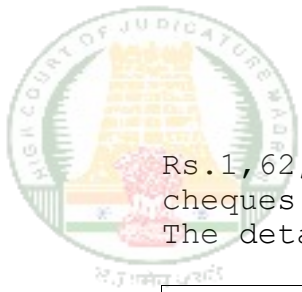
For Petitioner : Mr. K. S. Karthik Raja

For Respondent : Mr. C. Ananda Ramanan
(No Appearance)

O R D E R

This petition has been filed seeking to call for the records relating to the case in C.No.83 of 2017 on the file of the Fast Track Court at Magisterial Level, Tiruppur and to quash the same.

2. The case of the prosecution is that the 1st accused is a Private Limited Company and the 2nd accused is the Managing Director/Authorized Signatory of the 1st accused and the 3rd accused is the Additional Director of the 1st accused. The company is engaged in the manufacturing of hosiery goods and as per the books of accounts maintained in the regular course of business by the complainant, the accused has to pay a sum of



Rs.1,62,18,794 to the complainant. The accused No.2 had issued cheques to the complainant on behalf of accused No.1 and 3. The details of the cheque is as follows:

S.No.	Cheque No. & Date	Drawn on	Amount
1	001017/24.03.2015	HDFCBank, Kumaran Road, Tirupur	Rs.23,00,000/-
2	001018/24.03.2015	HDFCBank, Kumaran Road, Tirupur	Rs.23,80,003/-
		Total	Rs.46,80,003/-

The complainant also deposited the above mentioned cheques for collection through his bank and the same was returned with an endorsement " Funds Insufficient", which lead to the filing of the present complaint.

3. The learned counsel for the petitioner submits that the petitioner is not an Additional Director of the said company and she is only a share holder of the company and the complaint itself is not maintainable as no offence under section 138 of the Negotiable Instruments Act is made out and hence the complaint is liable to be quashed. The learned counsel relied on the decision the Judgment reported in 2018 SCC Online Madras 3522(2019) 1 MWN(Crl) DCC 1 in Crl.O.P.Nos. 3389 and 3390 of 2018 and Crl.M.P.Nos.9468,9469,1480to 1483 of 2019.

4. Heard the learned counsel on either side.

5. The learned counsel for the respondent submits that in the present case the stand of the petitioner that he is only a share holder and no action can be taken against her is not sustainable.

6. In the Judgment reported in 2018 SCC Online Madras 3522 (2019) 1 MWN(Crl) DCC 1 in Crl.O.P.Nos. 3389 and 3390 of 2018 and Crl.M.P.Nos.9468,9469,1480 to 1483 of 2019 the relevant portion of the order in para No.3 it is held as follows:

The petitioners are only investor Directors/Non-Executive Directors and even as per the Articles of Association of the 1st accused company, such investor Directors are not incharge of or responsible for the day-today management of the company and they will not be liable for the any default or failure of the company.

The complaint does not contain sufficient allegations against these petitioners and it does



not satisfy the requirements under Section 141 of the Negotiable Instruments Act, 1881.

7. On perusal of the records produced before this Court there is no records to show that the petitioner is responsible and involved day to day affairs of the Company and the Judgment produced by the learned counsel appearing for the petitioner squarely applies to the present case.

8. In view of the fact that the petitioner is only an investor, the proceedings in C.C.No.83 of 2017 on the file of the Fast Track Court at Magisterial Level, Tiruppur is hereby quashed with regard to the petitioner alone.

9. Accordingly, this Criminal Original petition is allowed and there shall be a direction to the Court below to complete the proceedings in C.C.No.83 of 2017 insofar as the other concerned, within a period of three months from the date of receipt of a copy of this order. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

smn/gln

To

1. The Fast Track Court, Magisterial Level,
Tiruppur.
2. The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

CrI.O.P.No.5190 of 2018
And
CrI.M.P.Nos.2569 and 2570 of 2018

SMI (CO)
BE(28/07/2021)