



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Cr1.R.C.No.635 of 2015

Muthuselvi Chandrasekar
Director of M/s.First Choice Forex
and Services Private Limited,
No.D-4, Sai Swagath Apartments
No.1/320, M.T.H.Road,
Near Canara Bank,
Ambattur,
Chennai - 600 053.

...Petitioner/Accused - 4

.. Vs ..

1. M/s.Kotak Mahindra Bank Limited,
1st Floor, Ceebros Center,
No.45, Montieth Road,
Egmore,
Chennai - 600 008.
Represented by its Deputy Manager and
The Authorized Signatory
Mr.K.Surendran
2. M/s.First Choice Forex and Services
Private Limited,
High Towers, No.40-A,
Nungambakkam High Road,
Nungambakkam
Chennai - 600 034.
3. A.S.Chandrasekaran
Managing Director,
M/s.First Choice Forex and Services
Private Limited,
Residing at No.D-4,
Sai Swagath Apartments
No.1/1/320, M.T.H.Road,
Near Canara Bank,
Ambattur,
Chennai - 600 053.



4. P.Srikrishnan @ Srikrishnan Parthasarathy
Director,
M/s.First Choice Forex and Services
Private Limited,
Residing at Flat No.22, 5th Block,
Maansarovar Apartments,
No.11-A, Arcot Road,
Lakshmi Nagar, Porur,
Chennai - 600 116.

...Respondents 2 to 4

PRAYER: Criminal Revision Case filed under Section 397 r/w. 401 of Cr.P.C., to set aside the order dated 27.05.2015 passed in M.P.No.236 of 2015 in C.C.No.10944 of 2014 on the file of the learned FTC No.II Metropolitan Magistrate, Egmore, Chennai.

For petitioner : Mr.V.V.Sairam

For Respondents : No appearance

O R D E R

The respondent is served; name printed; none appears.

2. The first respondent is the complainant in C.C.No.10944 of 2014. He filed the above petition, for alleged offence under Section 138 of Negotiable Instruments Act, by way of private complaint under Section 200 of Cr.P.C and the same was taken on file.

3. Summons were issued.

4.The fourth accused, Muthuselvi Chandrasekar, has filed M.P.No.236 of 2015 seeking for discharge on the ground that she was not described as Director of the Company in the complaint and she has not signed the document namely cheque, and hence in the absence of any averment in the complaint regarding the Director of the Company and being a non-signatory to the cheque, as drawer of the cheque she has not signed of the cheque, she is not liable for further prosecution. The said petition was dismissed stating that already summons have been issued for appearance. Hence, this petition.

5. Xerox copy of the cheque No.499580, dated 04.08.2014 was called for and perused by the learned counsel for the revision petitioner. There are 4 accused in the above calender case. There is no description as submitted by the present petitioner in the said complaint and hence I find force in the submissions of Mr.V.V.Sairam, learned counsel for the petitioner.



6. On perusal of the complaint as well as the averment in the petition found that the petitioner is not a signatory to the instrument and accused is notified, being the Director of the first accused Company. She has not acted in any capacity and she is only the wife of the second accused who is the Managing Director of the first accused Company and therefore the inclusion of the petitioner as an accused is not maintainable.

7. In the absence of any leading evidence regarding the petitioner's nexus with the first accused company not with regard to any of issuance of the cheque fully drawn by the another of the cheque, she cannot be either as an accused.

8. Hence, this Criminal Revision Petition is allowed. Consequently M.P.No.236 of 2015 is set aside.

Sd/-
Assistant Registrar (CS VII)

//True Copy//

Sub Assistant Registrar

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To

The FTC No.II Metropolitan Magistrate,
Egmore,
Chennai.

+1 cc to Mr.V.V.Sairam, Advocate Sr.No.47747

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