

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.O.P.No.4964 of 2018
and
Crl.M.P.Nos.2473 & 2474 of 2018

1. Thomas Pattery,
Partner,
P & P Enterprises,
227, Chellappan Gounder Street,
Kattoor,
Coimbatore - 641 009.

2. Seena Pattery,
Partner,
P & P Enterprises,
227, Chellappan Gounder Street,
Kattoor,
Coimbatore - 641 009

3. P & P Enterprises,
Represented by its Partner,
227, Chellappan Gounder Street,
Kattoor,
Coimbatore - 641 009

... Petitioners

Vs.

The Partnership Firm Carrying its business
Registered before the Government of Tamil Nadu,
In the Registrar of Firms in (REG No.528 of 2014)
having its registered office at United Steel Corporation,
60, Mugappair Road
Padi, Chennai - 600 050.

Represented by its Manager and Power of Attorney
Sanjay Modi,
Manager,
United Steel Corporation,
60, Mugappair Road,
Padi, Chennai - 600 050. .. Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records of the complaint in C.C.No.31 of 2018 on the file of the Fast Track Court (Magisterial Level), Ambattur and to quash the same as illegal and without jurisdiction.

For Petitioners : Mr.Govind Chandrasekhar

ORDER

The petitioner has filed this petition seeking to call for the records relating in C.C.No.31 of 2018, on the file of the Fast Track Court (Magisterial Level), Ambattur and to quash the same as illegal.

2. The case of the prosecution is that the complainant and the accused are doing the steel bar business and during the course of business dealings with the accused, the accused have purchased the steel bars worth about Rs.2,48,788/- from the defacto complainant and paid Rs.49,115/- and the accused had to pay the balance amount for a sum of Rs.1,99,673/- to the complainant. While being so, the accused had made part payment vide Cheque No.793958 dated 10.11.2017 for Rs.60,000/- drawn on South Indian Bank Limited, Trichy Road, Coimbatore and the complainant had presented the above cheque for clearance in his Banker namely, State Bank of India, SME Branch, Ambattur, Chennai, however the same was returned for the reason "Exceeds Arrangement". Thereafter, the complainant issued legal notice dated 28.12.2017 and the same was acknowledged and received by the accused on 30.12.2017. Though legal notice was sent by the complainant, the accused failed to discharge his liabilities. Hence the complainant had lodged a private complaint in C.C.No.31 of 2018.

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3. The learned counsel appearing for the petitioner submitted that after the receipt of legal notice dated 28.12.2017, the petitioner sent a reply

dated 10.01.2018, wherein it was stated by the petitioner that he transferred a sum of Rs.25,000/- on 11.12.2017 via NEFT immediately after the cheque return was notified and for balance of Rs.35,000/-, he also attached a Demand Draft drawn on South Indian Bank Ltd., D.D.No.539345, dated 10.01.2018 to the United Steel Corporation, payable at Chennai. Even before receipt of the legal notice, the petitioner made an initial payment of Rs.25,000/- and also sent a reply to the legal notice dated 10.01.2018, whereby he also made the balance consideration and therefore the complaint lodged by the defacto complainant is not sustainable and the allegation leveled against the petitioner is not true and prays for quashment of the same.

4. Though notice was sent and served on the respondent and even his name appears in the cause list, there is no representation on behalf of him. Considering the pendency of the matter for more than three years, this Court is inclined to pass orders, based on the materials available on record.

5. It is not in dispute that admittedly the defacto complainant filed a complaint under Section 138 of the Negotiable Instrument Act, as if the petitioner issued the cheque bearing No.793958 dated 10.11.2017 for Rs.60,000/- drawn on South Indian Bank Limited, Trichy Road, Coimbatore, with an intention to mischief him. However a perusal of the Reply Notice dated 10.01.2018 reveals that before the legal notice of the defacto complainant, the petitioner immediately after knowing about the fact of dishonour of cheque, made initial payment of Rs.25,000/- through NEFT transfer and by way of reply notice dated 10.01.2018, he also attached a Demand Draft for the balance consideration in D.D.No.539345, dated 10.01.2018, to the United Steel Corporation, payable at Chennai and the same also forms part of the typed set of papers filed along with this petition in Page no.4 and subsequently there was an another transaction, whereby the petitioner has also paid Rs.64,673/- towards his total dues by way of Demand Draft drawn in South Indian Bank, favouring United Steel Corporation, D.D.No.539405, dated 25.01.2018 and the same is also available in page no.10 of the typed set of papers filed along with this petition.

6. From the above, it is clear that now the petitioner has no legally enforceable debt against the defacto complainant as he paid all the dues incurred on business dealing between them, through NEFT transfer and Demand Drafts dated 10.01.2018 and 25.01.2018 and therefore, this Court has no hesitation to quash the complaint against the petitioner.

7. For the reasons aforesaid, this Criminal Original Petition is allowed and C.C.No.31 of 2018 on the file of the Fast Track Court (Magisterial Level), Ambattur, is quashed. Consequently connected miscellaneous petitions are closed.

26.07.2021

Speaking/Non Speaking order

Index : Yes/No

Internet: Yes/No

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To

1. The Fast Track Court (Magisterial Level),
Ambattur

2. The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.4964 of 2018

M.DHANDAPANI,J.

Sk



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