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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2021

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRL.O.P.NO.6375 OF 2019

AND

CRL.M.P.NOS.3527 AND 3528 OF 2019

Pooja Madaiah
Director,
M/s.Spencers Travel Services Ltd.,
Sudharshan Building, 6th Floor, No.27,
Whites Road, Royapettah, Chennai - 600 014.

...Petitioner / Accused

Vs.

M/s.Sha Ratanraj Majendra Kumar'
Rep. by its Power Agent,
Mr.Prakash Chand Jain,
S/o.Late Shobhagmal,
No.16/2, Narayan Mudali Lane,
Chennai - 600 079.

...Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Crl.P.C., praying to call for the records pertaining to C.C.No.729 of 2018, on the file of the Metropolitan Magistrate Court (IV FTC), George Town, Chennai and quash the same.

For Petitioner : Mr.shiva

For Respondent : Mr.Ralph V.Manohar

ORDER

This Criminal Original Petition has been filed seeking to call for the records pertaining to C.C.No.729 of 2018, on the file of the Metropolitan Magistrate Court (IV FTC), George Town, Chennai and quash the same.

2. The case of the petitioner is that he is a Director of the company M/s.Spencer Travel Services Limited. The respondent herein has filed a complaint u/s.138 of the Negotiable Instruments Act against the petitioner and the company. It is alleged by the petitioner that he has nothing to do with the company and hence, he approached this Court to quash the



proceedings stating that he was not liable for the act of the company as well as he was unauthorised signatory of the cheque. He was only a Director, nothing to do with affairs of the company, hence, he prayed to quash the proceedings against him and the entire proceedings pending in the year 2018.

3. It reveals that the complaint filed in C.C.No.729 of 2018 was initiated by the respondent herein for the dishonour of the cheque issued on behalf of the company and the amount involved is nearly a sum of Rs.25,00,000/-. After issuing of the notice, the respondent/de facto complainant filed a complaint u/s.138 of the Negotiable Instruments Act and the same was taken on file in C.C.No.729 of 2018, before the Metropolitan Magistrate Court (IV FTC), Egmore Town, Chennai. After that, the petitioner approached this Court contending that he was only Director and hence, he prays to quash the proceedings.

4. The records show that the petitioner, on behalf of the 1st accused/Company, borrowed a loan of Rs.22,50,000/- and for repayment, issued a cheque for Rs.25,00,000/- on 30.10.2017, drawn on M/s.Axis Bank Limited, Annasalai, Chennai - 600 002, but the cheque was dishonoured for the reason "payment stopped by drawer". The de facto complainant being deceived by the fact of dishonour of the above cheque had sent a legal demand notice dated 09.01.2018 to the accused 1 to 5 through RPAD to the accused addresses calling upon all the accused to pay the dishonoured cheque amount. The said legal notice sent to all the accused office addresses were duly received by them on 12.01.2018 and the notice sent to the 2nd and 3rd accused residence addresses were evaded by them and returned with an postal endorsement "Left". On seeing the entirety of the facts, this Court at this stage could not decide whether the petitioner is liable to pay the amount or not and the petitioner has to workout his remedy before the trial Court by adducing oral and documentary evidence about his non-liability to honour the cheque.

5. In the result, this criminal original petition is disposed of with the above direction. However, the case is of the year 2019 and the trial Court is directed to dispose of the matter within a period of six 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

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To

The Metropolitan Magistrate Court (IV FTC),
George Town, Chennai

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+2ccs to M/s.L.Muralikrishnan, Advocate Sr.No.66801

+2ccs to M/s.Ralph V. Manohar, Advocate Sr.No.67191

Cr1.O.P.No.6375 of 2019

RGN(CO)

RVM(14/02/2022)