

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRL.O.P.NOS.14321 AND 14323 OF 2018

AND

CRL.M.P.NOS.7240 AND 7243 OF 2018

1. M/s.Ramraj Industries,
Rep. by its Partners,
No.29/5B, M.C. Road,
Kilmurugai Village,
Ambur, Vellore District.
2. P.Ram Kumar,
Partner of M/s.Ramraj Industries
3. P.Rajasekar,
Partner of M/s.Ramraj Industries
4. P.Mangaiyarthilagam,
Partner of M/s.Ramraj Industries

.. Petitioners/Accused 1 to 4
In Both

Vs.

M/s.SSA & Company,
Rep by its Authorised Signatory,
No.1, Devaraj Nagar,
Opp. IVP, MBT Road,
Ranipet, Vellore District.

.. Respondent/Complainant
In Both

Common Prayer: Criminal Original Petitions filed under Section 482 of the Code of Criminal Procedure, to call for the records of C.C.Nos.80 & 82 of 2017, respectively, pending on the file of the Judicial Magistrate, Ranipet, Vellore District and quash the same.

For Petitioners in both petitions : Mr.S.P.Arthi

For Respondent in both petitions : Mr.S.Parthasarathy

COMMON ORDER

These petitions have been filed to call for the records in C.C.Nos.80 & 82 of 2017, respectively, pending on the file of the Judicial Magistrate, Ranipet, Vellore District and quash the same.

2. The case of the prosecution is that A1 is a Company, A2 to A4 are the partners of the said Company. The accused Company is involved in manufacturing activities in leathers. The accused Company purchased Fevicol Adhesive and Adhesive Tapes from the complainant due to which, the accused Company is due to pay a sum of Rs.9,44,479/- and Rs.30,00,000/- to the complainant. When the complainant demanded the said due amount of Rs.39,44,479/-/-, A2 to A4 had issued various cheques, in favour of the complainant. To the shock and surprise of the complainant, the cheques on being presented were returned for ''Funds Insufficient'' and the same was communicated to the complainant who issued lawyer's notice dated 20.01.2016, calling upon the accused 2 to 4 to clear off the amount due. Even after the issuance of the statutory notice, the petitioners have failed to settle the amount due and hence the complainant was filed under Section 138 of the Negotiable Instrument Act against the petitioners in C.C.Nos.80 & 82 of 2017, respectively, on the file of the Judicial Magistrate, Ranipet, Vellore District.

3. The learned counsel appearing for the petitioners submitted that the 1st petitioner is a Partnership Firm and the petitioners 2 to 4 are its partners and all are family members. The entire business administration is solely taken care of by the 3rd petitioner herein and petitioners 2 and 4 are not involved in the day-to-day affairs of the Company. The 3rd petitioner had placed orders for purchase of fevicol adhesives and fevicol tapes and the respondent complainant also supplied the same to the 1st petitioner Company. Thereafter, misunderstanding arose between the parties due to the quality of the product that was supplied. The petitioners called upon the respondent's representative to sort out the issues amicably, however there was no positive response from the respondent and

the respondent complainant had hurriedly initiated 138 proceedings with false claims and untrue allegations and misusing the judicial form to harass the petitioners.

4. It is further submitted by the learned counsel appearing for the petitioners that the entire affairs of the Company was taken care by the 3rd respondent. The petitioners 2 and 4 have no role to play in the above said proceedings and therefore, the 138 proceedings against the petitioners 2 and 4 are not sustainable and further on instructions, he submitted that the petitioners 1 and 3 are ready to face the trial and therefore, this Court may issue a direction to the Trial Court to expedite the trial and complete the same as early as possible and furthermore, the appearance of the petitioners before the Trial Court may be dispensed with. Hence prays for allowing of these petitions against petitioners 2 and 4.

5. The learned counsel appearing for the respondent fairly conceded for quashing the complaint in respect of petitioners 2 and 4 and opposed to grant relief to the petitioners 1 and 3, as they are responsible for all business related transactions and directly involved into the affairs of the Company.

6. This Court has carefully considered the rival submissions and also perused the available materials, particularly, the private complaint lodged by the respondent.

7. The facts in the present case is not in dispute that there existed commercial transaction between the parties concerned. The petitioners herein had only disputed the false claims made by the respondent complainant against the petitioners. Though various claims made against the petitioners, it is the case of the petitioners that the petitioners 2 and 4 are not involved into the affairs of the Company.

8. Further without any details as to how the petitioners 2 and 4 herein, in their capacity as partners were responsible for the issuance of the cheques, implicating the petitioners 2 and 4 for the offence under Section 138 of the Negotiable Instruments Act is not justifiable. Further, the said fact has also been fairly conceded by the respondent. Hence this Court is inclined to quash the complaints against the

petitioners 2 and 4. Insofar as the petitioners 1 and 3 are concerned, on the submission made by the learned counsel for the petitioners, on instructions, that the petitioners 1 and 3 are ready to face the trial and further the 3rd respondent himself admitted that he placed orders for purchase of the above said raw materials and reiterates that the entire business activities and its related transactions were solely dealt with by him, this Court is of the opinion that he shall face trial before the Trial Court. It is left open to the petitioners 1 and 3 to raise all the contentions before the Trial Court and the same shall be considered on its own merits and in accordance with law.

9. For the reasons aforesaid, this Criminal Original Petition is allowed insofar as petitioners 2 and 4 are concerned and C.C.Nos.80 & 82 of 2017, respectively, pending on the file of the Judicial Magistrate, Ranipet, Vellore District, are quashed insofar as petitioners 2 and 4.

10. In respect of petitioners 1 and 3, these petitions are disposed of directing the trial court to dispose of C.C.Nos.80 & 82 of 2017, as expeditiously as possible as per seniority of the case. The petitioners and respondent are directed to co-operate with the trial court for the early completion of trial. Further, taking into consideration the request as made by the learned counsel for the petitioners, the appearance of petitioners 1 and 3 before the trial court is dispensed with except for their appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioners is necessary, the trial court, at its wisdom, shall direct their appearance on those days. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

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To

1. The Judicial Magistrate,
Ranipet, Vellore District.
2. The Chief Judicial Magistrate,
Vellore District.

+2ccs to Mr.S.Parthasarathy, Advocate, S.R.No.45729 & 45730

Cr1.O.P.Nos.14321 to 14323 of 2018

GSM(CO)
RLP(22/11/2021)