



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.09.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.OP.Nos.16462, 16463 & 16464 of 2018

and

Crl.M.P.Nos.8474, 8475, 8476, 8477, 8479 & 8480 of 2018

Venkataraj

...Petitioner in all the petitions

Vs.

R.Thiyagarajan

...Respondent in all the Petitions

Common Prayer : This Criminal Original Petitions filed under Section 482 of Code of Criminal Procedure to call for the records relating to the private complaint filed by the respondent herein in STC.No.42, 155 & 43 of 2018 on the file of the learned Special Court for Land Grabbing Cases (Magistrate Level) Salem and quash the same in respect of the petitioner herein.

For Petitioner : Mr.S.Senthilnathan

For Respondent : Mr.R.Babu

COMMON ORDER

The Criminal Original Petitions have been filed to quash the proceedings in STC.No. 42, 155 & 43 of 2018 on the file of the learned Special Court for Land Grabbing Cases (Magistrate Level) Salem.

2. There are totally four accused in this case. The first accused is the partnership firm, the accused 2 & 3 are the parents of the petitioner and the petitioner is arrayed as A4 in a private complaint preferred by the respondent for the offences under Section 138 and 142 of Negotiable Instruments Act. It is the case of the petitioner that the second accused, being a partner of the first accused company, has regularly purchased pure silk from the complainant on credit basis. To discharge the legally enforceable debt, the accused issued various cheques drawn on Lakshmi Vilas Bank, Vandimedu Stopping Branch. The respondent/complainant presented the cheque in the Bank for encashment and the same have been returned for want of 'insufficient funds'. Thereafter, the respondent/complainant sent a statutory notice to the accused. Even though the petitioner/accused acknowledged the notice and he did not send any reply for the same. Hence, the respondent/complainant has



filed three private complaints under Sections 138 and 142 of the Negotiable Instruments Act before the learned Judicial Magistrate, Salem, against the 4 accused persons including the petitioner and the same were taken on file in STC.Nos.42,42 and 155 of 2018. To quash the above said proceedings, the petitioner/A4 has preferred these present petitions before this Court.

3. The petitioner claims himself to be a student and he has no way connected with the Firm run by his parents. He is neither a partner nor an employee of a Firm. The petitioner has not signed any of the cheques issued in the name of the Firm. Apart from filing of criminal cases, the complainant has also filed a civil suit in CS.No.37/2011 and the same is pending. Hence, the learned counsel for the petitioner prays that the Criminal cases filed against him to be quashed.

4. Heard the learned counsel appearing for both sides and perused the materials produced before the Court.

5. As rightly submitted by the learned counsel for the petitioner is neither a partner nor an employee of the Firm run by the parents. The petitioner is not even signed any of the cheques issued in the name of the Firm. The respondent/complainant has also filed a civil suit in respect of the said cheques. The respondent/complainant has not produced any materials connecting the petitioner that the functioning a day to day affairs of the partnership firm run by the accused 2 & 3. In the absence of the same, the petitioner cannot be held liable for the cheques issued by the second accused. The respondent/complainant has already filed complaints as against accused 2 & 3 who were the partners of the Firm. The petitioner is a needless party to these proceedings. Therefore, this Court has no hesitation to quash the proceedings pending against the petitioner alone in STC.No. 42, 155 & 43 of 2018 on the file of the learned Special Court for Land Grabbing Cases (Magistrate Level) Salem.

6. Accordingly, these Criminal Original Petitions are allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

rli



To

1.The Judicial Magistrate No.1,
Salem.

2.The Special Court for Land Grabbing Cases
(Magistrate Level) Salem.

+3cc to Mr.S.Senthilnathan, Advocate, S.R.No.48774 to 48776

+3cc to Mr.B.Vijayakumar, Advocate, S.R.No.48770 to 48772

CrI.OP.Nos.16462, 16463 & 16464 of 2018
and
CrI.M.P.Nos.8474, 8475,8476, 8477,
8479 & 8480 of 2018

NK(CO)
GN(19/11/2021)