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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NOS.14753 & 14795 OF 2021

AND

CRL.M.P.NOS.8020, 8021, 8027 & 8028 OF 2021

1. Sri Venkatesa Paper & Boards Ltd,
Rep by S.Meena, Director,
Swaminathapuram (Post),
Palani Taluk, Dindigul District.

2. S.Meena ... Petitioners in both Crl.O.Ps

Vs.

P.Nagarajan ... Respondent in
CRL.O.P.No.14753 of 2021

N.Thilagavathy ... Respondent in
CRL.O.P.No.14795 of 2021

COMMON PRAYER: Criminal Original Petitions filed under Section 482 of the Code of Criminal Procedure to call for all the records of C.C.Nos.296 & 293 of 2015 respectively on the file of the Judicial Magistrate Court-I, Udumalpet and Quash the complaints.

For Petitioners
in both Crl.O.Ps. : Mr.B.Natarajan

COMMON ORDER

The petitioners/accused in C.C.Nos.296 & 293 of 2015 have filed these petitions. The petitioners are accused in a private complaint filed by the respondents for the offence under Section 138 of Negotiable Instruments Act, 1881.

2. The main contention of the learned counsel for the petitioners is that in the year 2007, several cheques and documents which were available in the petitioner company were stolen when there was some labour unrest, for which, a complaint was lodged by the Personal Officer of the petitioner company and CSR No.55/2007 was assigned and FIR came to registered. In the FIR, the respondents were named as accused.



3. He further submitted that they also issued a public notice in local English and Tamil Newspapers such as 'The New Sunday Express' and 'Dinamani' about the stealing of cheques. The other point is that there is no legal liability to the respondents. The cheques which were of the year 2007 were MICR cheques. From the year 2010 onwards, CTS cheques have come into force and the previous old cheques were taken back by the Bank which would clearly prove that the stolen cheques have been misused and various cases have been registered against the petitioners. In support of his contentions, the learned counsel for the petitioners has filed a typed set of papers.

4. On a perusal of the police complaint dated 10.04.2007 and CSR No.55 of 2007, it is found that the police complaint has been lodged by Manikandarajan, Personal Manager. It is further seen that the petitioner company was into Paper Mill business and they were maintaining bank accounts in Catholic Syrian Bank, Indian Bank, South Indian Bank and Dena Bank. The cheques and other documents which were in their office have been lost and not found. He further contended that it could have happened during the period of strike. Further, in the public notice issued in 'The New Sunday Express and Dinamani', it is specifically mentioned that the cheques belonging to HDFC Bank and South Indian Bank were found to be missing. Thereafter, in this case, FIR has been registered on 09.01.2016 on the direction of the Judicial Magistrate-I. Further, the cheques in this case have been returned for the reason 'account closed' and not as contended by the petitioners. Further this Court finds that the points raised by the petitioners are factual in nature which are to be raised during the trial and not in this criminal original petition.

5. The learned counsel for the petitioners prayed to dispense with the personal appearance of the petitioners, on the file of the Judicial Magistrate - I Udumalpet, for which, the counsel shall file an appropriate petition before the trial Court and the trial Court, following "Bhaskar Industries Limited Versus Bhiwani Denim & Apparels Ltd. and others reported in 2001 SCC (Cr1) 1254" case shall consider the same. Resultantly, the criminal original petitions are dismissed. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

The Judicial Magistrate No.1,
Udumalpet.

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and
Crl.M.P.Nos.8020, 8021, 8027
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NR (CO)
CS/17/09/2021