

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2021

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

CrI.O.P.No.16360 of 2019

and

CrI.M.P No.8191 of 2019

1.P.Parameswari
2.M.P.Balaji Prakasam
3.M.P.Padmavathi

...Petitioners

Vs

M/s.Tamil Nadu Rolling Mills Limited
Represented by its Power of Attorney
Adarsh Jalan
New No.3, Old No.1
Prof.Subramanian street
Kilpauk
Chennai-600 010.

...Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to CC.No.299 of 2015 on the file of the XVIII Metropolitan Magistrate FTC-II, Allikulam and quash the same.

For Petitioners : Mr.S.Arivazhagan

For Respondent : Mr.G.Krishnakumar

O R D E R

This petition has been filed to quash the proceedings in C.C No. CC.No.299 of 2015 on the file of the XVIII Metropolitan Magistrate FTC-II, Allikulam and quash the same.

2. The respondent has filed a complaint under Section 138 of Negotiable Instruments Act against the company and its directors. The petitioners have been arrayed as A4 to A6 in the complaint.

3. The specific ground that has been taken by the petitioners in this quash petition is that the allegations made in the complaint do not satisfy the requirements of Section 141 of Negotiable Instruments Act. To substantiate this contention, the judgement in Mr.Anil Pathak and others vs. M/s.Larsen and Tourbro Limited, Represented by its Authorized Representative Mr.V.K.Natarajan, reported in 2019

(1) MLJ (Criminal) 385 has been pressed into service.

4. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondent.

5. The allegation made in the complaint against the petitioners is extracted hereunder:

"3. The complainant states that the first accused is a limited company, the second, third, fourth, fifth and sixth accused are the directors of the first accused firm and they are in charge and responsible for the day to day affairs of running of the first accused firm".

6. It will be relevant to take note of the judgment referred supra, which was cited by the learned counsel for the petitioner. The relevant portions are extracted hereunder:

"12. From the above said judgments, it is very clear that it is not enough if the words used under Section 141 of the Negotiable Instruments Act, is merely extracted. In order to make a Director of a Company is liable for the offence committed by the Company under section 141 of the Negotiable Instruments Act, there must be a specific averment against the Director to show as to how and in what manner the Director was responsible for the conduct of the business of the Company. This Composition has been reiterated by the Hon'ble Supreme Court consistently.

15. This Court is not in agreement with the submission made by the learned counsel for the respondent. If it is enough to mechanically repeat the requirement under Section 141 (1) of the Negotiable Instruments Act, any number of Directors can be made as an accused in a complaint filed under Section 138 of Negotiable Instruments Act. This will lead to a situation where the Directors who have nothing to do with the day-to-day affairs of the Company, Nominee Directors etc., being made to face a criminal complaint just because there is a repetition of the words found under Section 141 (1) of the Negotiable Instruments Act. This may lead to an abuse of process of Court and any person who is shown as a Director will be made to undergo the ordeal of trial. That is the reason why the Hon'ble Supreme Court has repeatedly held in the judgments referred supra that the complaint has to specifically say as to how and in what manner the Director was responsible for the conduct of the business of the Company.

counsel for the respondent, does not take a contrary view and it merely reiterates that the allegations made in the complaint should satisfy the requirements of section 141 of the Negotiable Instruments Act.

7. In the present case, except for the allegations referred supra, there is nothing else found in the complaint and the allegations against the petitioners is nothing, but the reproduction of the language used under Section 141 of Negotiable Instruments Act. The above judgment will squarely apply to the facts of this case.

8. The continuation of the proceedings against the petitioners will amount to an abuse of process of Court and requires interference of this Court under Section 482 of Cr.P.C.

9. In the result, the proceedings against the petitioners in CC.No.299 of 2015 on the file of XVIII Metropolitan Magistrate FTC-II, Allikulam, is hereby quashed and this Criminal Original Petition is allowed. The XVIII Metropolitan Magistrate, FTC-II, Allikulam, is directed to complete the proceedings in C.C No.299 of 2015 as against the other accused persons, within a period of three months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1.The XVIII Metropolitan Magistrate
FTC-II, Allikulam.

2. The Public Prosecutor,
High Court, Madras.

Copy to:The Section Officer,
Criminal Section,
High Court, Madras-104.

+1cc to M/s.S.Arivazhagan, Advocate SR.8195

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SSV(CO)
CB(08/03/2021)

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