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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2021

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.3219 OF 2017

&

CRL.M.P.NOS.2319 AND 2320 OF 2017

1. The Indian Institute of Planning & Management,
Rep. By its authorized signatory,
Prakash Tripathi,
No.133/4, Qutab Enclave,
Phase II, Katwaria Sarai,
New Delhi - 110 016
 2. Dr.M.K.Chaudhuri
 3. Ratna Chaudhuri
- ... Petitioners

Versus

R.Rakesh

... Respondent

PRAYER:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.3845 of 2016 pending on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai and quash the proceedings.

For Petitioners : Mr.R.Ilanchezhian

For Respondent : Mr.S.Thiruvengadam

O R D E R

The present Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.3845 of 2016 pending on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai and quash the proceedings.

2. Heard Mr.R.Ilanchezhian, learned counsel for the petitioners and Mr.S.Thiruvengadam, learned counsel for the respondent.



3. The complaint in C.C.No.3845 of 2016 is sought to be quashed by the petitioners mainly on the ground that notice of demand has not been sent to the 2nd and 3rd petitioners, whereas, the notice has been sent to the 1st petitioner / Society and similarly, there is no privity of contract between the parties, therefore, the complaint to punish the petitioners under Section 138 of Negotiable instruments Act is not maintainable.

4. On the other hand, the learned counsel appearing for the respondent submits that a cheque has been issued towards arrears of salary and the same was presented on 10.12.2015 and it was dis-honoured on 11.12.2015 stating 'funds insufficient'. After issuing notice, the private complaint has been filed. Therefore, the contention of the learned counsel for the petitioners that there was no legal notice issued to the parties cannot be countenanced.

5. Even assuming that the notice has not been separately sent to the 2nd and 3rd petitioners, the said petitioners, who are actually incharge of the society, deemed to be aware of the affairs of the society, mere contention that the impugned notice has not been sent to the 2nd and 3rd petitioners and similarly, the contention that there is no legal enforceable debt, are all matter of evidence. Therefore, this Court cannot make a roving enquiry based on the factual aspects.

In such view of the matter, the present Criminal Original Petition is dismissed. The learned XVIII Metropolitan Magistrate, Saidapet shall dispose of the case, viz., C.C.No.3845 of 2016, as expeditiously as possible, preferably, within a period of three months from the date of receipt of a copy of this order. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

ssd

To

1. The XVIII Metropolitan Magistrate,
Saidapet, Chennai.



2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Chinnasamy, Advocate, S.R.No.64604

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KSM(CO)
PBS/22/12/2021