



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16.11.2021

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CrI. O.P. No. 4185 of 2017
and
CrI.M.P.No.3092 of 2017

1. M/s. Sri Sakthi Pharma,
rep. By its Proprietrix,
Mrs. R.Sumathi

2. Mrs. R.Sumathi,
W/o. K.S.Ragupathy

... Petitioners

Versus

Mr.E.Sudhakar
S/o. G.Elangovan

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records and quash the private complaint proceeding pending against them in S.T.C.No.156 of 2016 on the file of learned Judicial Magistrate No.I, Kanchipuram.

For Petitioner : No appearance
For respondent : No appearance

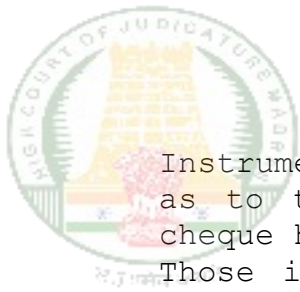
O R D E R

(This case has been heard through video conference)

This Criminal Original Petition has been filed to quash the private complaint pending against the petitioners in STC.No.156 of 2016 on the file of the learned Judicial Magistrate No.I, Kanchipuram.

2. Today, when the matter is taken up for hearing, there is no representation neither on behalf of the petitioners nor on behalf of the respondent.

3. Having gone through the materials available on record, this Court is of the considered view that when a complaint is filed under Section 138 of the Negotiable



Instruments Act, this Court cannot go into the question of fact as to the validity of the issuance of cheque and whether the cheque has been issued towards a legally enforceable debt or not. Those issues are factual and triable issues, which have to be decided only by way of a full fledged trial and not otherwise under Section 482 of Code of Criminal Procedure. The above view of this Court is fortified by the decision of the Hon'ble Supreme Court in STATE OF HARYANA AND OTHERS Vs. BHAJANLAL AND OTHERS 1992 Supp (1) Supreme Court Cases 335, wherein the Hon'ble Supreme Court has held that the power of quashing a criminal proceeding should be exercised very sparingly and with circumspection.

4. In such a view of the matter, this Court is of the view that quashing of the case cannot be considered, at this point of time. Accordingly, this Criminal Original Petition is dismissed. It is for the petitioners to take all their defence before the trial Court. The petitioners/accused are directed to appear before the trial Court within two weeks from the date of receipt of a copy of this order and file an application under Section 436 of Code of Criminal Procedure. On such filing of the application, trial Court is directed to release the petitioners on bail on the same day on executing a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each with two sureties. If thereafter, they abscond, a fresh FIR can be registered under Section 229 A of the Indian Penal Code. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

rpp

To

The Judicial Magistrate No.I,
Kanchipuram.

Crl. O.P. No. 4185 of 2017
and
Crl.M.P.No.3092 of 2017

AD(CO)
CB(30/11/2021)