



CrI.O.P.No.981 of 2017
& CrI.M.P.Nos.729 & 730 of 2017

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.12.2021

Coram:

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

CrI.O.P.No.981 of 2017
& CrI.M.P.Nos.729 & 730 of 2017

1.Mrs.Isha,
2.Y.P.Ravi,

... Petitioners/Accused

/versus/

M/s.Sri Umayal Enterprises,
Rep. by its Proprietor to Mr.K.Muthumanickam,
S/o.M.Kumar, No.44, Flat No.C, Kalashethra Road,
Vijayashanthi Apartment, Thiruvanmiyur,
Chennai – 600 041

... Respondents/Complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to grant stay further proceedings in C.C.No.3760 of 2015 on the file of the XVIII Metropolitan Magistrate Court at Saidapet, Chennai.

For Petitioners	: Mr.M.P.Rajendiran, for M/s.Swaraj Associates
For Respondent	:Mr.D.Lakshmipathy



Crl.O.P.No.981 of 2017
& Crl.M.P.Nos.729 & 730 of 2017

WEB COPY

ORDER

This Criminal Original Petition has been filed to call for the records pertaining to C.C.No.3760 of 2015 on the file of the XVIII Metropolitan Magistrate Court, Saidapet, Chennai and quash the same.

2.When the matter is taken up for hearing, Mr.M.P.Rajendiran, learned counsel appearing for the petitioners submitted that he has given change of vakalath for the petitioners in the last hearing. His submission is recorded. There is no representation for the petitioners and this petition has been filed to quash the proceedings under 138 of Negotiable Instruments Act.

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



CrI.O.P.No.981 of 2017
& CrI.M.P.Nos.729 & 730 of 2017

WEB COPY

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 petitioner to take all his defence before the trial Court. The accused is 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 petitioner 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, he absconds, a fresh FIR can be registered under Section 229 A of the Indian Penal Code. Consequently, connected Criminal Miscellaneous Petitions are closed.



WEB COPY



CrI.O.P.No.981 of 2017
& CrI.M.P.Nos.729 & 730 of 2017

09.12.2021

Index : Yes/No.
Internet : Yes/No.
ari

To

- 1.The XVIII Metropolitan Magistrate Court at Saidapet, Chennai.
- 2.The Public Prosecutor, High Court, Madras.

N.SATHISH KUMAR, J.

ari



WEB COPY



Crl.O.P.No.981 of 2017
& Crl.M.P.Nos.729 & 730 of 2017

Crl.O.P.No.981 of 2017
& Crl.M.P.Nos.729 & 730 of 2017

09.12.2021