



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2021

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CrI. O.P. Nos.14612 of 2017
and CrI.M.P.No.9263 & 9264 of 2017

1.M/s.Sri Rama Textile Spinning Mills Limited,
A Public Limited Company,
Rep by director P.Muthusamy S/o.Pichai,
Regd Office at No.235, Mint Street,
Park Town, Chennai-600 003.

2.Rajeshwari

3.P.Muthusamy

4.M.Ramakrishnan

5.M.Rajaram

...Petitioners

Vs.

M/s.Vel Ginning Factory,
by its Proprietor,
P.Madesh
Son of Palaniappan
Having office at No.98
Edappady road, Konganapuram
Salem District

....Respondent

PRAYER :Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to the complaint in S.T.C.No.193 of 2017 pending on the file of Judicial Magistrate No.III, Salem filed under Section 200 of Cr.P.C r/w Section 138, 141 & 142 of Negotiable Instruments Act, 1881 dated 16.02.2017 and quash the same by allowing this Criminal Original Petition.

For Petitioners : Mr.R.Marudhachalamurthy
For Respondent : Mr.A.Sundaravadanam

ORDER

This Criminal Original Petition has been filed to call for the records relating to the complaint in STC.No.193 of 2017 pending on the file of Judicial Magistrate No.III, Salem filed under Section 200 of Cr.P.C r/w Section 138, 141 & 142 of Negotiable Instruments Act, 1881 dated 16.02.2017 and quash the same by allowing this Criminal Original Petition.



2. Heard the learned counsel for the petitioners and the learned counsel for the respondent.

3. Learned counsel for the petitioners submitted that the petitioners are arrayed as A1 to A5 in STC.No.193 of 2017 pending on the file of Judicial Magistrate No.III, Salem. He further submitted that the respondent/complainant herein alleged in his complaint that the first petitioner is a company and the petitioners 2 to 5 are Directors to the said company and one Balaji who arrayed as 6th accused in his complaint has also alleged as Director to the Company. The Company has involved in the Textile business and used to purchase Cotton bales from the complainant. The said company was managed by A2 to A6. Now this petition has been filed by A1 to A5 mainly on the ground that A6 has already resigned from the company in the capacity of Director way back 31.08.2016 and it was duly registered on 01.09.2016 before the Registrar of Company. It is the admitted case of the respondent/complainant herein that alleged cheque was issued on 04.10.2016 signed by A6 in the capacity of Direcotr. But Form No.DIR-12 would clearly disclose that he was resigned from the company right from 01.09.2016. Further, it is his contention that legal notice also issued in this regard. Therefore, the present complaint as against these petitioners would not arise and the petitioners are not legally enforceable to the debt. Hence, prayed to quash the proceedings.

4.This Court is of the view that whether A6 has resigned the company prior to the issuance of the cheque or not is a matter of evidence and merely on the basis of seven unfortified documents, this Court by exercising its power under Section 482 of Cr.P.C., cannot conduct a roving enquiry or decide and probe into the evidence at this stage, which have to be gone into only during the trial. Such being the position, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed. It is for the petitioners to take all their defence before the trial Court.

5. The learned counsel for the petitioners requested this Court to dispense with the presence of the petitioners No.2 to 5. Taking into consideration, the facts and circumstances of the case, the presence of the petitioners No.2 to 5 is dispensed with except for receipt of copies, answering the charges, questioning under Section 313 Cr.P.C., or on any other date as may be required by the trial Court. They shall be represented by a counsel, who shall cross examine the witnesses on the same day, they are examined in Chief.

Sd/-

Assistant Registrar(CS VI)

//True Copy//



msv
To,
The

Judicial Magistrate No.III, Salem

+1 cc to Mr.A.Sundaravadanam ., Advocate Sr.NO.58739

+1 cc to Mr.R.Marudhachalamurthy, Advocate Sr.NO. 58840

Crl. O.P. Nos.14612 of 2017

and

Crl.M.P.No.9263 & 9264 of 2017

SPD (CO)

A.SK(06.12.2021)