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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17/11/2021

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.No.15134 of 2017
and
Crl.M.P.No.9544 of 2017

1. Spencers Travel Services Limited
Sudharshan Building, 6th Floor
Door No.27 Whites Road
Royapettah
Chennai 600 014.
 2. Geetha Jorge
 3. Binu Vergis
- ... Petitioners
- Vs

Jineshwar Infra Ventures Pvt Ltd
rep by its Managing Director
Mr.Pramod Chordia
rep. By its Authorised Representative
Mr.Tarunkumar Jain
Poonamallee High Road

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure (Cr.P.C) to call for the records and quash the complaint in C.C.No.2784 of 2017, pending on the file of XIX Metropolitan Magistrate Court, Egmore, Chennai.

For petitioners : Mr.K.Muralikrishnan

For respondent : No appearance

O R D E R

This Criminal Original Petition has been filed to quash the complaint in C.C.No.2784 of 2017, pending on the file of XIX



Metropolitan Magistrate Court, Egmore, Chennai.

2. The case of the petitioners is that the accused have borrowed a sum of Rs.6,05,00,000/- and repaid with interest to the tune of Rs.7,16,60,000/-, but the respondent has retained some of the documents given as security at the time of borrowing the loan.

3. Heard the learned counsel appearing for the petitioners and there is no representation on behalf of the respondent. Perused the materials available on record.

4. The main contention of the learned counsel appearing for the petitioners is that they had already discharged the amount and they filed a suit in O.S.No.4579 of 2016, on the file of the City Civil Court, Chennai. Therefore, the complaint filed by the respondent against the petitioners is not maintainable.

5. 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.

6. 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 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 absconds, a fresh FIR can be registered under Section 229 A of



the Indian Penal Code. Consequently, connected Criminal Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

mvs.

To

XIX Metropolitan Magistrate Court,
Egmore, Chennai.

CrI.O.P.No.15134 of 2017

PL(CO)
SU(02/12/2021)