



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2021

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No.16057 of 2017
and Crl.M.P.No.n9938 & 9939 of 2017

1.Nalini Sundararaman

2.S.Sundararaman

...Petitioners

Vs.

M/s.Sri vari Villas Private Limited,
Registered Office at G-3,9/6,
Pasumathi Street, Kodambakkam,
Chennai-600 024.
Rep. by its authorized person
Mr.V.Karthik.

...Respondent

PRAYER :Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.798 of 2015 on the file of the Metropolitan Magistrate Fast Track Court-III, Saidapet, Chennai-600 015 and quash the same.

For Petitioners: Mr.Mr.N.Ramakrishnan
or M/s.Waroan & Sai Rams

For Respondent : Mr.G.B.Sabridos

ORDER

This Criminal Original Petition has been filed to quash the proceedings pending under Section 138 of the Negotiable Instrument Act, 1881 on the file of the Metropolitan Magistrate Fast Track Court-III, Saidapet, Chennai-600 015.

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

3. The main contention of the learned counsel for the petitioners is that there is no privity of contract between the



petitioners and the respondent. Infact, there were some transaction between one Ramesh and the petitioners in the year 2011, wherein, several blank cheques were obtained by Mr.S.Ramesh and the respondent in respect of the business transaction were fraudulently filled up and misused for the purpose of extracting moneys from the petitioners. In this regard, the complaint has been lodged by the respondent against one Ramesh and FIR is also pending at this stage. He further submitted that the blank cheques were misused and proceedings under Section 138 and 142 of the N.I.Act have been initiated as against the petitioners. Hence, prayed to quash the proceedings.

4. This Court has perused the entire materials available on record. As the entire submission of the learned counsel for the petitioner is relate to the factual dispute. Whether there is privity of contract between the petitioners and respondent or not is as a matter of evidence and it cannot be gone at this stage. The grounds raised by the counsel for the petitioner are all factual in nature and it requires appreciation of evidence and this Court cannot decide the same in exercise of its jurisdiction under Section 482 of Criminal Procedure Code. It is left open to the petitioner to raise all the grounds before the Court below and the same shall be considered on its own merits and in accordance with law. This Court is not inclined to interfere with the proceedings pending before the Court below.

5. The learned counsel for the petitioners requested this Court to dispense with the presence of the petitioner. Taking into consideration, the facts and circumstances of the case, the presence of the petitioner is dispensed with and he shall be represented by a counsel, who shall cross examine the witnesses on the same day, they are examined in Chief. The petitioner shall be present before the Court below at the time of questioning under Section 313 Cr.P.C and at the time of passing of the final judgment.

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 with a direction to the Court below to complete the proceedings in C.C.No.798 of 2015 within a period of six months from the date of receipt of a copy of this order. 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 Petitions are closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

msv

To

1.The Metropolitan Magistrate,
Fast Track Court No.III,
Saidapet, Chennai-600 015.

2.-Do- Thro The Chief Metropolitan Magistrate,
Egmore, Chennai.

+1cc to Mr.G.B.Sabridos, Advocate Sr.58662[22/12/2021]

+1cc to Mr.Waraon &b Sai Rams, Advocate Sr.58752[22/12/2021]

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and
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