



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 29.11.2021

CORA@M :

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THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

Crl.O.P.Nos.25876 & 25877 of 2017
and
Crl.M.P.Nos.14922 to 14925 of 2017

1.Jai Hind Automation Private Limited,
Represented by its Directors,
Plot No.31, Goodwill Co-operative Society,
S.No.126/1+2, Aundh,
Pune,
Maharashtra - 411 007.

2.Sugathan Vellaudhan

3.Baby Sudhasugathan

... Petitioners
in both petitions

Vs.

Kingfa Science & Technology (India) Private Limited,
(Formerly Hydro S&S Industries Limited)
Represented by its Chief Executive Officer,
Nirnoy Sur,
Having office at Dhun Building 827, Anna Salai,
Chennai - 600 002.

... Respondent
in both petitions

Prayer in Crl.O.P.No.25876 of 2017: Criminal Original Petition
filed under Section 482 Cr.P.C., to call for the records and
quash the C.C.No.805 of 2017 pending on the file of the Fast
Track Court-1 (Metropolitan Magistrate Level), Allikulam,
Chennai.

Prayer in Crl.O.P.No.25877 of 2017: Criminal Original Petition
filed under Section 482 Cr.P.C., to call for the records and
quash the C.C.No.806 of 2017 pending on the file of the Fast
Track Court-1 (Metropolitan Magistrate Level), Allikulam,
Chennai.

For Petitioners : Mr.T.Ravikumar
in both petitions



For Respondent : Mr.T.V.Suresh Kumar
for M/s.Genican and Associates
in both petitions

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C O M M O N O R D E R

These Criminal Original Petitions have been filed to quash the proceedings in C.C.Nos.805 and 806 of 2017 pending on the file of the Fast Track Court-1 (Metropolitan Magistrate Level), Allikulam, Chennai, filed under Section 138 of the Negotiable Instruments Act.

2.The case of the respondent/complainant is that the accused had purchased various goods from the complainant and on account of the purchase, the accused is liable to pay a sum of Rs.76,47,813/- to the complainant. Towards the said liability, the accused issued three cheques totally for a sum of Rs.8,00,000/-, which are the subject matter of C.C.No.805 of 2017 and another three cheques totally for a sum of Rs.8,50,000/-, which are the subject matter of C.C.No.806 of 2017. When the cheques were presented by the complainant for collection, they were dishonoured for insufficiency of funds. Hence, the complainant initiated prosecutions in C.C.Nos.805 and 806 of 2017 against the accused for the offence under Section 138 of the Negotiable Instruments Act.

3.The main contention of the learned counsel for the petitioners is that the petitioners have already paid the amount by way of demand drafts and they have discharged the liability and therefore, the prosecution is not maintainable. In support of the said contention, much emphasis has been placed by the learned counsel for the petitioners on the letter sent by the complainant, dated 30.06.2016, which is enclosed at Page No.3 of the Typed Set of Papers.

4.Heard the learned counsel on either side and perused the entire materials available on record.

5.On a perusal of the letter of the complainant, which is relied upon by the learned counsel for the petitioners, this Court is of the view that the contents therein would not amount to discharge at all. What is stated in the above notice is that, after adjusting certain amount, still there is a due of more than Rs.59 Lakhs from the petitioners and the impugned cheques, which were issued towards such liability, have been dishonoured. In that context only, the legal notice has been issued by the complainant. Therefore, at no stretch of imagination, such statements can be construed as discharge. In



any event, the party who pleads discharge, has to establish the same before the trial Court and the same is a matter of evidence and it cannot be gone into by this Court while exercising jurisdiction under Section 482 Cr.P.C. In such view of the matter, this Court does not find any merit or material to quash the proceedings as against the accused.

6. Accordingly, these Criminal Original Petitions are dismissed. Consequently, connected miscellaneous petitions are closed.

7. 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, the trial Court is directed to release the petitioners on bail on the same day on they 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.

8. The trial Court is directed to dispose of the cases in C.C.Nos.805 and 806 of 2017, on its own merits and in accordance with law, without being influenced by the observations made in this order, as expeditiously as possible, but not later than six months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

mkn
To

The Metropolitan Magistrate,
Fast Track Court-1,
Allikulam, Chennai.

2. Do through the Chief Metropolitan Magistrate, Chennai

+1 cc to Mr.M.karthikeyan, Advocate Sr.NO.62052

+2 ccs to M/s.Genican and Associates, Advocate Sr.NO. 62253

CrI.O.P.Nos.25876 & 25877 of 2017

KSM(CO)

A.SK(14.12.2021)