



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 02.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No. 28562 of 2017

and

Crl.M.P.Nos. 16199 and 16200 of 2017

1.Palanisamy Ravi
2.Marimuthu Thulasimani
3.Ramakrishnan Kannan
4.Ramasamy Manoharan . . . Petitioners/Accused 3 to 6

Versus

M/s.Arihant Investment,
Rep by its partner Jitendra Mehta,
No.9,Trevelyan Basin Street,
Sowcarpet, Chennai-600 079. . . . Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to C.C.No.2893 of 2016, pending on the file of the IV Fast Track Court, George Town, Chennai and quash the same.

For Petitioners : No appearance

For Respondent : No appearance

ORDER

This Criminal Original Petition has been filed to quash the criminal proceedings in C.C.No.2893 of 2016, pending on the file of the IV Fast Track Court, George Town, Chennai.

2.Today, when the matter was taken up for hearing, there was no representation either on behalf of the petitioners or respondent.

3.The petitioners are charged with an offence under Section 138 of the Negotiable Instruments Act. 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.

4. In such 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. Consequently, connected Criminal Miscellaneous Petitions are closed.

5. It is for the petitioners to take all their defence before the trial Court. 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.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

psa/mkn

To

1. The Metropolitan Magistrate,
IV Fast Track Court,
George Town, Chennai.

2. -do- Thro Chief Metropolitan Magistrate,
Egmore, Chennai.



Copy to:

1.Mr.Palanisamy Ravi,
Director,

M/s.Blue Lotus Support Service Pvt Ltd.,
18/7 Postal Colony, 2nd Street,
West Membalam, Chennai-33.

2.Mr.Marimuthu Thulasimani

M/s.Blue Lotus Support Service Pvt Ltd.,
18/7 Postal Colony, 2nd Street,
West Membalam, Chennai-33.

3.Mr.Ramakrishnan Kannan

M/s.Blue Lotus Support Service Pvt Ltd.,
18/7 Postal Colony, 2nd Street,
West Membalam, Chennai-33.

4.Mr.Ramasamy Manohar,

M/s.Blue Lotus Support Service Pvt Ltd.,
18/7 Postal Colony, 2nd Street,
West Membalam, Chennai-33.

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PL(CO)

CB(17/12/2021)