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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2021

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. Nos.29023 and 29024 of 2017
and Crl.M.P.No.16378 and 16379 of 2017

1. M/s.Team Textiles
By its Partner R.Renuga
W/o.V.Rameshkumar.

2. R.Renuga

3. V.Rameshkumar
S/o.K.Venkatachalapathy
Partner,
M/s.Team Textiles.
All are at :
D.No.30-M7/A3,
Gangai Street 6th cross,
Amman Nagar South,
Kumarapalayam,
Kumarapalayam taluk,
Namakkal District.

...Petitioners in both Crl.O.Ps

Vs.

S.Ramya,
Proprietrix M/s.Sree Myil textiles,
having her business place at:
7/29C/1,Narayana Nagar 2nd street,
Kumarapalayam Taluk,
Namakkal District
rep. by her power agent
M.P.Sakthikumar.

.... Respondent in Crl.O.P.No. 29023 of 2017

M.P.Sakthikumar,
S/o. V.P.M.Prabhakaran,
Proprietor
M/s.Sri Rajakaliamman Textiles,
79-A, Narayana Nagar 2nd Street,
Kumarapalayam,



Kumarapalayam Taluk,
Namakkal District

... Respondent in Crl.O.P.No. 29024 of 2017

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PRAYER in Crl.O.P.No.29023 of 2017: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the case in STC No.114 of 2016 pending on the file of the learned Judicial Magistrate, Tiruchengode, quash the same by allowing this quash petition.

PRAYER in Crl.O.P.No.29024 of 2017: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the case in STC No.115 of 2016 pending on the file of the learned Judicial Magistrate, Tiruchengode, quash the same by allowing this quash petition.

For Petitioners in

both Crl.O.P : Ms.N.Manokaran

For Respondent in

both Crl.O.Ps : Mr.R.Maruthachalamoorthy

COMMON ORDER

These Criminal original petitions have been filed to call for the records pertaining to the case in STC Nos.114 and 115 of 2016 pending on the file of the learned Judicial Magistrate, Tiruchengode, and quash the same.

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

3.This Court has perused the entire materials available on record. Whereas in the registered postal cover, only a plain paper has been sent to show as if the demand notice has been dispatched and served on the petitioners. Though six registered postal covers are placed before this Court, on opening the same, this Court has found six white papers and there is no legal notice sent to the petitioners. However, this Court is unable to come to a definite conclusion that only a white paper has been sent in the covers, since, this Court has also observed that the stapler pins on both sides of the cover have been removed. Therefore in what circumstances, those pins have been removed has to be looked into only in the process of adducing evidence and whether only white paper alone was sent or not is also to be seen on examining the postal authorities and by letting evidence to the nature of the weightage of the postal cover etc.



4. In such view of the matter, this Court is of the view that at this stage, these aspects cannot be gone into under Section 482 of Cr.P.C., and it is left open to the applicant to establish their stand before the trial Court. The learned Trial Judge has to conduct a roving enquiry in this matter and if the petitioner is able to show that a white paper has been sent, etc., the learned Magistrate has to dispose the case by keeping in mind the mandatory provisions which have been violated. Accordingly, at this stage, I am not inclined to quash the criminal proceedings and these Criminal original petitions are dismissed. Consequently connected miscellaneous petitions are closed.

5. Registry is directed to dispatch all the original covers placed before this Court. It is also to be noted from the submission of the learned counsel that all the covers contained legal notice prima facie appears to be correct. The learned Judicial Magistrate is required to see whether the initial burden on the complainant to send a legal notice has been discharged with or not, first.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

msv

To

The Judicial Magistrate, / The Despatch clerk to note down the
Tiruchengode. / Directions of the Court and carry
it out accordingly

+2CCs to Mr.N.Manokaran, Advocate, Sr.Nos.57977, 57978

+1CC to Mr.R.Marudhachalamurthy, Advocate, Sr.No.57789

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KV (CO)

K.RK. (29.11.2021)