



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 02.02.2021

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THE HONOURABLE MRS. JUSTICE R. THARANI

Crl.R.C.(MD)No.258 of 2020
and
Crl.M.P.(MD)No.2171 of 2020

1. M/s.J.Trading Company
Partnership Firm by its Managing Partner,
J.Ravikumar

2. J.Ravikumar

... Petitioners

Vs.

V.Balaji

... Respondent

Prayer : This criminal revision case is filed under Section 397 r/w. Section 401 of Cr.P.C., to call for records pertaining to the order dated 08.01.2020 made in Crl.M.P.No.3323 of 2019 in S.T.C.No.87 of 2017 on the file of the Judicial Magistrate, Fast Track Court (Magistrate Level) at Theni and to set aside the same.

For Petitioners : Mr.J.Lawrance
For Respondent : Mr.S.Siva Thilakar

ORDER

This Criminal Revision Case has been filed to call for records pertaining to the order dated 08.01.2020 made in Crl.M.P.No.3323 of 2019 in S.T.C.No.87 of 2017 on the file of the Judicial Magistrate, Fast Track Court (Magistrate Level) at Theni and to set aside the same.

2.The revision petitioners were cited as accused by the respondent / complainant in S.T.C.No.87 of 2017 on the file of the Judicial Magistrate, Fast Track Court (Magistrate Level), Theni. The respondent / complainant filed a petition in Crl.M.P.No.3323 of 2019, to amend the cause title of the complaint. That petition was allowed by the Judicial Magistrate, Fast Track Court (Magistrate Level), Theni, on 08.01.2020. Against the same, the petitioner preferred this Revision.

3. On the side of the revision petitioners, it is stated that the respondent has mentioned the first revision petitioner as a



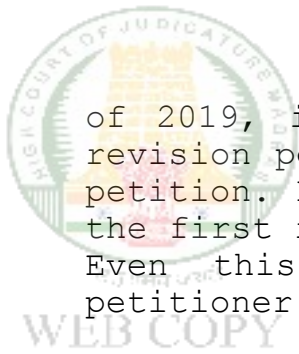
Partnership Firm. Now, after the examination of D.W.2, the respondent / complainant has filed a petition to amend the cause title portion of the complaint. The petitioner has mentioned that the petitioner is a proprietary concern in the reply notice and at the time of 313 questioning. But, without considering the same, the respondent / complainant has lodged the complaint, as if the first respondent is a partnership Firm and the respondent is not entitled to change the cause title at the later stage of the case and prayed the impugned order to be dismissed. It is further argued that the petitioner is denying the entire transaction under Section 141 of the Negotiable Instruments Act and hence allowing an amendment petition is not necessary. The nature of the case has to be considered even in the notice sent by the respondent / complainant. The details of the transaction, the mode of payment were not discussed. The revision petitioner is not denying the entire transaction. The trial will be affected in carrying out this amendment. The nature of the business transaction was not at all mentioned in the notice and prayed the impugned order to be set aside.

4. On the side of the respondent, it is stated that the revision petitioner has raised the points during the time of trial. All the cause title is mistakenly mentioned, it is only a curable defect and the same was allowed by the Judicial Magistrate, Theni based on Various judgment of the Hon'ble Supreme Court and prayed the petition to be dismissed.

5. A perusal of the records reveals that the respondent / complainant issued notice to the revision petitioner / respondent therein mentioning the first respondent as a partnership firm. In the reply notice, there was only a vague allegation that the legal notice was not sent in accordance with the Negotiable Instruments Act. In the reply it was not specifically stated whether the first respondent is a partnership firm or a proprietary concern. The trial Court has observed that even at the time of questioning under Section 351 Cr.P.C., this issue was not raised by the revision petitioners. Only in the written submission under section 313 Cr.P.C, the revision petitioner has stated that the first respondent is not a partnership firm, but, he also stated that the petitioner is a proprietary concerned. Even in the revision petition the first respondent is mentioned only as partnership firm represented by its Managing Partner. The revision petitioner has failed to produce any document to show whether the first revision petitioner is a partnership firm or a proprietary concern.

6. It is seen that only during the examination of D.W.2, viz., Vinothkumar, Assistant Manager, IDBI Bank, the respondent herein / complainant came to know that the first revision petitioner is a proprietary concern. The revision petitioner can raise his objection regarding the transaction and the mode of payment, in the original

<https://hcservicesecourt.org.in/hcservices> S.T.C.No.87 of 2017. The petition in Cr.M.P.No.3323



of 2019, is only for amending the cause title. In what way the revision petitioner can be prejudiced is not stated in the revision petition. In the revision petition, it is not clearly stated whether the first respondent is a partnership firm or a proprietary concern. Even this petition is filed representing the first revision petitioner as a partnership firm.

7. In the above circumstances, there is absolutely no merit in the revision petition and hence, the Criminal Revision Case is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Judicial Magistrate,
Fast Track Court (Magistrate Level)
Theni
- 2.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2-copies)

Order made in
Crl. R.C.(MD)No.258 of 2020 and
Crl.M.P. (MD)No.2171 of 2020
02.02.2021

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SRS (17/03/2021) 3P : 4C