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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2022

CORAM

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

CRL.O.P.NO.26249 OF 2016

AND

CRL.M.P.NO.13055 OF 2016

1. M/s. Mohan Breweries
and Distilleris Ltd.,
Rep. by its Chairman,
Sri. M. Naddagopal,
South Indian Film Chamber
of Commerce, Phase I,
Third Floor, No.605, 606,
TR Sundaram Avenue,
Thousand Lights,
Chennai - 600 006.

2. M.Naddagopal

3. Aravind Nandagopal

... Petitioners

.Vs.

1. The State Bank of Hyderabad,
Main Branch,
Ground Floor, 45,
II Line Beach,
Chennai - 600 001.
Rep., by Manager,
N.Raghavan.

2. Natarajan Nandagopal

3. Shoba Natarajan

4. Sindura Arvind

5. Ramesh Babu

6. Sumati Ramesh Babu

... Respondents



PRAYER:-

Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to quash the C.C.No.2069/16 pending on the file of the VII Metropolitan Magistrate Court, George Town, Chennai.

For Petitioner : Mr.U.Karunakaran

O R D E R

This petition is filed to quash the C.C.No.2069/2016 pending on the file of 8th Metropolitan Magistrate Court, George Town, Chennai.

2. C.C.No.2069/2016 was filed for the offences under Sections 138 and 142 of Negotiable Instruments Act. The allegations in the complaint shows that the first accused company is the limited company and it is represented by its Chairman, the second accused. First accused availed various credit facilities from the State Bank of India which included the complainant bank. First accused represented by its Managing Director, the third accused executed relevant security documents at the time of availing credit facilities. First accused defaulted in payment of monthly installments in Term Loan Account. The suit in O.A.No.111/2014 was filed for recovery of dues before DRT-II, Chennai and that was decreed on 02.03.2016. The complainant bank initiated recovery proceedings against the first accused and its directors second to eighth accused. First accused represented by the second accused has issued a cheque bearing No.615762 dated 31.03.2016, drawn on State Bank of India, Commercial Branch, Chennai for a sum of Rs.2,90,00,000/-, as part payment of the outstanding loan amount. This cheque was presented for collection through complainant's main branch on 08.06.2016. It was returned by the bankers on 09.06.2016 for the reason "funds insufficient". A demand notice dated 29.06.2016 was sent to the accused seeking payment of the cheque amount within 15 days from the date of receipt of notice. That notice was received by the accused. Thereafter, the accused had not paid the amount. Therefore, the complaint.

3. Challenging this complaint, petitioners/accused filed this petition for quashing the proceedings.

4. Learned counsel for the petitioner submitted that the monetary issues between the petitioner and the defacto complainant/respondent had been settled and the credit facility availed by the petitioner had been closed as on 24.11.2021. He



filed copy of the letter received from State Bank of India on 26.11.2021.

5. Considered the submission and perused the records.

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6. The letter dated 26.11.2021 from State Bank of India through the Managing Director-M/s.Mohan Breweries Distilleries Limited, has no specific details about the loan transaction, the credit facility availed and closed. It is not known whether it relates to the loan transaction concerned in C.C.No.2069/2016. The complaint allegations clearly made out a case for prosecuting the petitioners for the offence under Section 138 of Negotiable Instruments Act. Therefore, this Court finds no merits in this petition. However, considering the submission of the learned counsel for the petitioner that the loan transactions had been settled between the parties, the petitioner is directed to present the settlement details with relevant records before the concerned Court. On such filing of the records, evidence and settlement, the learned VII Metropolitan Magistrate Court, George Town, Chennai is directed to dispose the case on merits and in accordance with law.

7. Accordingly, this petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

AT

To

1. The VII Metropolitan Magistrate Court,
George Town, Chennai.
2. -Do Thro the Chief Metropolitan Magistrate,
Chennai.

CRL.O.P.NO.26249 OF 2016 AND
CRL.M.P.NO.13055 OF 2016

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PBS/29/04/2022