



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2022

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.Nos.3470 & 5767 of 2019

and

Crl.M.P.Nos.2224, 2225 & 3255 of 2019

Mrs.Susela Padmavathy Amma

Director

M/s. Fibtel Telecom Solutions (India)

Private Limited, Suprabhath, T.C.4/591

Sreevilas Lane,

Kowdiar P.O. Trivandrum - 695003. ... Petitioner in/Accused 3
in both Petitions

Vs.

M/s. Bharti Airtel Limited,

Rep. By its Authorised Signatory,

Registered Office at Bharthi Crescent,

No.1 Nelson, Mandela Road, Vasant Kunj,

Phase -2, new delhi 110 070 and

Circle Office at :No.101,

Oceanic Towers, Santhome High Road,

Santhome, Chennai -600 028.

... Respondent/Complainant
in both Petitions

COMMON PRAYER: Criminal Original Petitions had been filed under Section 482 of Cr.P.C, prayed to call for the records in C.C.Nos.3151 & 3150 of 2017 on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai and quash the same as against the Petitioner.

For Petitioner

in both Petitions : Mr.V.Kamalakumar

For Respondent

in both Petitions : Mr.P.T.Sri Ganesh

COMMON ORDER

These Criminal Original Petitions had been filed to quash the case in C.C.Nos.3151 & 3150 of 2017 on the file of the



learned XVIII Metropolitan Magistrate, Saidapet, Chennai.

2. When the case came up for hearing, learned Counsel for the Petitioner submitted that the Petitioner is the Director of the Company, but she was not in-charge of the day to day affairs of the Company and this fact had been clearly mentioned in the typed set of papers filed along with this Petition.

3. The learned Counsel for the Petitioner invited the attention of this Court to Paragraph No.13, which reads as follows:

Excepting the allegation that the Petitioner is a Director of the Company, there is no other averment in the complaint to show that the Petitioner was in-charge of and was responsible to the company for the conduct of its business.

Therefore, the Petitioner sought to quash the criminal complaint lodged by the Respondent herein in C.C.No.3151 of 2017 on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai.

4. The learned Counsel for the Respondent/Complainant vehemently objected the line of the argument of the learned Counsel for the Petitioner that the Petitioner herein had not replied to the statutory notice. The Petitioner herein is arrayed as A-3 in the private Complaint had given promises that she will be responsible to pay the balance and share of the said outstanding.

5. It is the contention of the learned Counsel for the Respondent that what are all argued by the learned Counsel for the Petitioner is to be considered only during trial while adducing evidence and not to be considered while exercising discretion by the High Court under Section 482 of Cr.P.C., Therefore, the learned Counsel for the Respondent prays this Court to dismiss the Petition as having no merit.

6. On consideration of the rival submissions and on perusal of the records, the submission of the learned Counsel for the Petitioner cannot at all be considered at this stage. As rightly pointed out by the learned Counsel for the Respondent, this subject matter is to be considered during trial before the learned Metropolitan Magistrate. In the light of the guidelines issued by the Hon'ble Supreme Court in the reported ruling in 1992 Supp (1) SCC 335:1992 SCC (cri) 426 in the case of State of Haryana Vs. Bhajanlal, to the Hon'ble High Court regarding the quashing of criminal complaint. What are all argued by the learned Counsel for the Petitioner can be agitated as valuable defence of the Accused before the learned Metropolitan



Magistrate.

7. These Criminal Original Petitions are dismissed with direction to the XVIII Metropolitan Magistrate, Saidapet, Chennai to proceed with the trial and dispose of the case within a period of three months from the date of receipt of a copy of this order or from the date of uploading this order on the website of this Court.

At this stage, the learned Counsel for the Respondent submitted that now the case has been transferred from the learned XVIII Metropolitan Magistrate, Saidapet, Chennai to the learned Metropolitan Magistrate, Fast Track Court - III, Saidapet. Therefore, the learned Metropolitan Magistrate, Fast Track Court - III, Saidapet is directed to dispose of the case within a period of three months from the date of receipt of a copy of this order. The learned Metropolitan Magistrate is advised to consider and pass orders if any Petition is filed seeking exemption from Personal appearance from the learned Metropolitan Magistrate and as there is no dispute regarding the identity of the Accused.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To.

1. The XVIII Metropolitan Magistrate,
Saidapet, Chennai.
2. The Metropolitan Magistrate,
Fast Track Court - III, Saidapet.
3. The Chief Metropolitan Magistrate,
Egmore, Chennai.
4. The Public Prosecutor,
High Court, Chennai.

+1cc to Mr.V.Kamalakumar, Advocate, S.R.No.28830

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SRA(CO)
CT/07/07/2022