



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 21.01.2022

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CrI.O.P.No.12252 of 2018

&

CrI.M.P.Nos.6499 and 6500 of 2018

1. S.P.Singaram
S/o.S.Subramaniam Chettiar
2. S.Vasugi
W/o.S.P.Singaram
3. S.Siva
S/o.S.Subramaniam Chettiar

...Petitioners /
Accused 3 to 5

Vs.

M/s.Sangam Chemicals
Rep. By its Proprietor
Mr.S.Natarajan
S/o.Sivaramakrishnan
No.3, Anna Main Road
M.G.R.Nagar
Chennai - 600 078

...Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C to call for the records pertaining to C.C.No.4378 of 2016 before the Metropolitan Magistrate (FTC III), Saidapet, Chennai and quash the same.

For Petitioner : Mr.S.Sithirai Anandam
For Respondent : No appearance

ORDER

This petition has been filed to quash the proceedings initiated under Section 138 of the Negotiable Instruments Act in C.C.No.4378 of 2016 before the Metropolitan Magistrate (FTC III), Saidapet, Chennai.

2. Heard the learned counsel for the petitioners.



3. The learned counsel for the petitioners submitted that the petitioners have retired from the partnership in the year 2005 itself which is evident from Clauses 9 and 10 of the Retirement Deed dated 01.12.2005 enclosed in the typed-set of papers. It is his further contention that they also disclosed their IT returns that there is no income for the company and therefore, the proceedings initiated against them under Section 138 of the Negotiable Instruments Act are not maintainable.

4. I perused the entire materials placed before this Court in the form of typed-set of papers. I am unable to persuade myself with the submission made by the learned counsel for the petitioners. This Court cannot go into the evidentiary value of the documents placed before this Court. Whether or not the petitioners were in the helm of affairs at the relevant point of time is the matter of evidence and it has to be proved before the trial Court. Similarly, merely disclosing in the income tax returns by their own statement cannot be taken as a proof. These are all matter of evidence and they have to be proved by the petitioners before the trial Court.

5. In such view of the matter, the proceedings initiated against the petitioners cannot be quashed. At this stage, learned counsel for the petitioners sought indulgence of this Court to dispense with the personal appearance of the petitioners before the trial Court. Considering the submissions made by the learned counsel for the petitioners, personal appearance of the petitioners before the trial Court is dispensed with except for receiving copies and answering the charges u/s.313 Cr.P.C questioning and any other hearing that may be fixed by the trial Court.

6. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gpa/gba

To

1. The Metropolitan Magistrate (FTC III),
Saidapet, Chennai



2. The Chief Metropolitan Magistrate,
Egmore, Chennai.

3. The Public Prosecutor
Madras High Court, Chennai - 104

+1cc to Mr.S.Sithirai Anandam, Advocate, Sr.No.3782

Crl.O.P.No.12252 of 2018 &
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SRG(CO)
KKV/01/02/2022