



Crl.O.P.Nos.4319 & 4480 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.Nos. 4319 & 4480 of 2020 &
Crl.M.P.Nos.2473, 2560, 2472 & 2561 of 2020

Jyothi

...Petitioner in Crl.O.P.Nos.4319
& 4480 of 2020

-Vs-

S. Saroja,
W/o.Selvam,
M/s.Aravindh Traders,
represented by her Manager/P.A. Holder
Mayilswamy.

.. 1st respondent in Crl.O.P.No.4319/2020

V.Sadagopan,
S/o.Veerabadran,
Proprietor M/s.Shivanand Tex,
No.2-4, OKS Layout,
opp. Ayyappan Koil Street,
Tirupur 641 602.

..1st respondent in Crl.O.P.No.4480/2020

- 2.M/s. Chaya Knitting Limited,
represented by its authorised signatory,
Leelakrishnan @ Neelakrishnan
- 3.Leelakrishnan alias Neelakrishnan,
authorised signatory,
M/s.Chaya Knitting Limited.
- 4.Ponnusamy,
authorised signatory
M/s.Chaya Knitting Limited.



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5.Mr.Regunathan
Managing Director,
M/s.Chaya Knitting Limited

R1 to R4- having office at Shed No.13,
TEKIC, TEA Nagar,
SIDCO, Mudalipalayam,
Tiruppur 641 606

... Respondents 2 to 5 in both
petitions.

Prayer in Crl.O.P.No.4319/2020: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records in C.C.No.482/2006 on the file of Judicial Magistrate-I, Tirupur and quash the same.

Prayer in Crl.O.P.No.4480/2020: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records in STC.No.1837/2006 on the file of Judicial Magistrate-I, Tirupur and quash the same.

For Petitioner in both petitions : Mr. R. Rajarajan

For Respondents in both petitions :Mr. R. Baskar for R1

COMMON O R D E R

The petitioner has come forward with these Criminal Original Petitions seeking a direction to quash the proceedings in C.C.No.482/2006 pending on the file of Judicial Magistrate-I, Tirupur and STC.No.1837/2006 pending on the file of Judicial Magistrate-I.



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Tirupur.

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2. The facts leading to filing of these petitions are as follows;

(i) The first respondent in both the petitions, namely S.Saroja and V.Sadagopan, representing proprietorship concerns, have lodged complaints against the 2nd respondent/A1 viz., M/s.Chaya Knitting Limited in both petitions alleging that they have credit dealings with the complainants/1st respondent by way of purchasing hosiery yarn and in this regard, as per books of accounts maintained in the regular course of business by the complainants, the accused 1 to 5 have to pay a sum of Rs.59,02,620/- to the 1st respondent/complainant in Crl.O.P.No.4319 of 2020 and Rs.19,36,446.46 to the 1st respondent/complainant in Crl.O.P.No.4480 of 2020.

(ii) In order to clear the debts, the 2nd and 3rd respondents/A1 and A2 have jointly issued three cheques, on various dates aggregating a sum of Rs.44,15,145/- to the 1st respondent in Crl.O.P.No.4319 of 2020 and four cheques on various dates, aggregating a sum of Rs.17,00,000/- to the first respondent in Crl.O.P.No.4480 of 2020. When the said cheques were presented before the Bank for encashment, the same were returned with an endorsement 'payment stopped' by the drawer. Hence,



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after causing statutory notice, complaints were filed against the respondents 2 to 5 and the petitioner herein who are authorised signatories and Managing Director and Director of 2nd respondent company in C.C.No.482 of 2006 and STC.No.1837 of 2006 before the Judicial Magistrate No.1, Tiruppur under section 138 of the Negotiable Instruments Act.

(iii) The petitioner being A5 who is the Director of accused company has come forward with these petitions seeking to call for the records in C.C.No.482 of 2006 and STC.No.1837 of 2006 and quash the same.

3. The learned counsel appearing for the petitioner submitted that totally there are 5 accused, in which, A1 is the company represented by its authorised signatory, A2 and A3 are the authorised signatories of the A1-company and A4 and A5 are respectively the Managing Director and Director of the A1 company. He would further submit that the petitioner is only an honorary director in the company and was never responsible for the conduct and day to day affairs of the A1 company. Thus he prayed for quashing of the complaints pending against her in



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C.C.No.482 of 2006 and STC.No.1837 of 2006 before the trial court.

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4. Learned counsel appearing for the first respondent/complainant submitted that A4 and A5 who are respectively the Managing Director and Director of A1 company are responsible for the conduct and day to day affairs of the company. Therefore, all the accused are liable to be punished for the offence under section 138 of Negotiable Instruments Act. That apart, the petitioner herein who was arrayed as 5th accused in both the complaints, has already filed a petition to quash STC.No.482 of 2006 pending before Judicial Magistrate No.I, Tiruppur before this Court in Crl.O.P.No.28706 of 2007 and this Court, by order dated 15.11.20212, dismissed the quash petition and suppressing the above fact, the petitioner has come forward with the present petition raising the same ground. Thus he prayed for dismissal of the petitions.

5. Refuting the same, learned counsel for the petitioner would submit that though the petitioner had already filed a petition for quashing the complaint, she can file another quash petition raising new



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grounds. He further submitted that the petitioner was not actively participated in the day to day affairs of the A1 company and she, being the wife of the 4th accused, is only a name lender as a Director, as such, she is nothing to do with A1 company and therefore she cannot be held liable vicariously for the offence committed by the other accused.

6. Perusal of records would reveal that the petitioner has filed Crl.O.P.No.28706 of 2007 raising the same ground as she has raised in the present petitions and this court, after categorically dealt with the same, dismissed the quash petition with an observation that the question of facts has to be decided only by the trial court at the time of trial as it has to be proved by supporting documents and evidence. Though the petitioner can file a second quash petition, on new grounds, the petitioner ought to have stated the earlier dismissal of her quash petition, whereas in the present case on hand, the petitioner suppressed the dismissal of Crl.O.P.No.28706 of 2007 filed by her before this Court. Besides that, the learned counsel for the first respondent submitted that a non bailable warrant was already pending as against the petitioner even before filing of the quash petitions. Therefore, this court is of the view



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that the petitioner is not entitled for any relief sought for in

Crl.O.P.No.4319 of 2020.

7. Moreover, though the petitioner has stated in Crl.O.P.No.4480 of 2020 that already she had filed a petition in Crl.O.P.No.24829 of 2007 for quashing the complaint in STC.No.1837 of 2006 and the same was dismissed for default, the ground raised by the petitioner that she cannot be held vicariously liable for the cheques issued by the A1 company is not acceptable. On perusal of the complaints, there are specific averments as against the petitioner and she has also actively participated in the day to day affairs of A1 company. That apart, the above ground raised by the petitioner is nothing but a disputed question of fact and the same has to be decided only before the court during trial by letting in oral and documentary evidence along with supporting materials. Therefore, this Court is not inclined to entertain Crl.O.P.No.4480 of 2020 and the same deserves to be dismissed.

8. In view of the aforestated discussions, this Court is of the



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considered view that both the petitions are liable to be dismissed as devoid of merits and accordingly they are dismissed. The trial court is directed to complete the trial in respect of C.C.No.482 of 2006 and STC.No.1837 of 2006 pending on its file within a period of three months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petitions are closed.

21.06.2022

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
msr

To

1. The Judicial Magistrate-I, Tirupur
2. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN. J.

msr

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