



WEB COPY



Crl.O.P.No.5239 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2022

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.5239 of 2020

and

Crl.M.P.Nos.2983, 2984 and 5669 of 2020

1. M/s. India Techs Limited,
No.39/4006, Kelmer's Complex,
Sreekandath Road, Ravipuram,
Kochi-682016 represented by its
Managing Director, G.V.Thomas

2. G.V.Thomas

... Petitioners

Vs.

M/s.Castrol India Ltd.,
Technopolis, Knowledge Park,
Mahakali Caves Road, Chakala,
Andheri (East), Mumbai-400 093.
Having its Southern Region Office
At Rayala Towers, V Floor, Nos.781-785,
Anna Salai, Chennai-600 002.
Represented by R.Vinoth Kumar,
Workshop Specialist.

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records and quash the complaint in C.C.No.7832 of 2017, on the file of the Learned Fast Track Court-II Metropolitan Magistrate, Egmore at Allikulam, Chennai (previously



CrI.O.P.No.5239 of 2020

originally filed with the Hon'ble Judicial 1st Class Magistrates Court,
Ernakulam.

For Petitioners : Mr.Prakash Goklaney

For Respondent : Mr.T.Mohan for
Mr.R.Anishkumar

ORDER

This petition has been filed to quash the charge sheet C.C.No.7832 of 2017, on the file of the Learned Fast Track Court-II Metropolitan Magistrate, Egmore at Allikulam, Chennai, for the alleged offence under Section 138 of the Negotiable Instruments Act, as against the petitioners.

2. The petitioners are the accused in the complaint lodged by the respondent for the offence under Section 138 of the Negotiable Instruments Act. The respondent filed a complaint that in the course of business, the petitioners placed several purchase orders with the respondent. On the basis of the orders, the respondent supplied lubricants to the accused under various invoices to the tune of Rs.92,78,882.09/-. In order to partial discharge of the said liability, the first accused company through the second accused and another Authorized Signatory of the first



Crl.O.P.No.5239 of 2020

accused, issued 4 cheques. All the cheques were presented for collection and the same were returned on 08.10.2014 for the reason "Insufficiency of funds". After issuance of Statutory Notice, the respondent lodged the complaint.

3. The learned counsel for the petitioners would submit that the complaint was originally presented before the Chief Judicial Magistrate, Ernakulam and thereafter transferred to Chennai in accordance with the amended provisions of the Act. A copy of the complaint which was served on the petitioners found that the contents of the complaint were completely at variance with that of the proof affidavit filed by the respondent herein. Therefore, a memo was filed by the learned counsel for the petitioners on 13.11.2019 before the Trial Court and the petitioners were furnished with a copy of the complaint with a seal of the Additional Chief Judicial Magistrate, Ernakulam and indicates that the complaint was presented during the month of October and the complaint was dated as 30.09.2014. Therefore, there were 2 complaints filed by the respondent for the same cause of action. Hence, the complaint itself is not maintainable.

4. Per contra, the learned counsel for the respondent would submit that after dishonour of Cheques, the respondent issued notice to



CrI.O.P.No.5239 of 2020

the petitioners on 30.08.2014. Thereafter, the respondent instructed its counsel at Kerala to proceed with the complaint. However, in the meanwhile, the petitioners approached the respondent with a request to present the cheques once again. On the said request, again the 4 cheques were presented for collection on 07.10.2014 and once again all the cheques were returned for insufficient funds. Therefore, again the respondent caused Statutory Notice on 03.11.2014 and the same was duly served on the petitioners on 05.11.2014. On the said cause of action, the respondent filed the complaint.

5. Unfortunately, the counsel who appeared for the respondent wrongly sent the earlier complaint which was prepared to file against the petitioners. Therefore, the grounds raised by the petitioners cannot be considered to quash the entire complaint. Even assuming that a wrong copy of the complaint was sent to the petitioners, the petitioners were provided with the correct copy of the complaint which is annexed in Page No.38 of the Typed set of papers along with proof affidavit of the respondent herein.

6. Therefore, this Court finds no merits in this petition and is



Crl.O.P.No.5239 of 2020

liable to be dismissed. However, the Trial Court is directed to complete the trial proceedings in C.C.No.7832 of 2017, on the file of the Learned Fast Track Court-II Metropolitan Magistrate, Egmore at Allikulam, Chennai, within a period of three months from the date of receipt of a copy of this order.

7. Accordingly, this criminal original petition stands dismissed.

Consequently, connected Miscellaneous petitions are closed.

04.07.2022

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
mn/cda

G.K.ILANTHIRAIYAN, J.



Crl.O.P.No.5239 of 2020

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To

1. The Fast Track Court-II Metropolitan Magistrate,
Egmore at Allikulam, Chennai.
2. The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.5239 of 2020
and
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04.07.2022