



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.14447 OF 2018

&

CRL.M.P.NOS.7349 & 7350 OF 2018

Ramathal

Director of Shri Muthuram Export [P] Limited,
W/o.Muthusamy,
No.361/5, Kombakkadu Pudhur,
Ichipatti Post,
Smanur - 641 668,
Coimbatore District.

... Petitioner

.Vs.

Sri Dhandayathapani Spinners [P] Limited,
Represented by its Managing Director,
S.Saravanabavan, S/o.S.Subbiyan,
S.F.No.493/2 Sivagiri Main Road,
Ganapathipalayam Post,
Erode District - 638 153.

... Respondent

PRAYER:- Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to the proceedings in S.T.C.No.134 of 2018 on the file of the learned Judicial Magistrate, Fast Track No.II, Erode and quash the same in respect of the petitioner.

For Petitioner : Mr.E.K.Kumaresan

For Respondent : Mr.M.Karthik
For Mr.I.C.Vasudevan

O R D E R

This petition has been filed to quash the proceedings against the petitioner in S.T.C.No.134 of 2018 on the file of the learned Judicial Magistrate, Fast Track No.II, Erode under section 138 of the Negotiable Instruments Act.



2. The crux of the complaint is that in a business transaction, the accused purchased Cotton Hank Yam from the complainant on credit basis. As per the accounts maintained by the complainant, the accused has to pay a balance sum of Rs.37,27,320/- to the complainant. In order to discharge the liability, the second accused, with the consent of the other accused, who are the directors, issued a cheque drawn on the Tamilnadu Mercantile Bank Ltd. When the cheque was presented for encashment, the same was returned as 'Account closed'. After issuing statutory notice, the complaint has been filed. The same was sought to be quashed by the petitioner mainly on the ground that except general allegation that the 4th accused along with other accused was incharge of the day to day affairs of the company, no other materials whatsoever is pleaded in the complaint. Even in the sworn statement given before the trial Court, no specific overt act has been stated against this petitioner. Merely on the basis of general allegations, the petitioner being aged more than 70 years, cannot be prosecuted for the cheque issued by the company.

3. Heard both sides.

4. As rightly pointed by the the learned counsel for the petitioner, except general allegation that the petitioner is also incharge and responsible in the day to day affairs of the company, no specific allegations have been made against the petitioner. Further, even in the sworn statement, similar stand has been taken by the complainant. It is not in dispute that the cheque has been issued by the second accused, who is Managing Director of the company. In the absence of any specific averment in the complaint as to the nature of the role played by petitioner, she cannot be mechanically made as an accused. Therefore, this Court is of the view that as there is no specific averment, except general allegations against the petitioner, it is a fit case which requires to be quashed.

5. Accordingly, this Criminal Original Petition is allowed and private complaint in S.T.C.No.134 of 2018 on the file of the learned Judicial Magistrate, Fast Track No.II, Erode under section 138 of the Negotiable Instruments Act against the petitioner alone is quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar



The Judicial Magistrate,
Fast Track No.II,
Erode.

+lcc to Mr.I.C.Vasudevan, Advocate, S.R.No.3587
+lcc to Mr.E.K.Kumaresan, Advocate, S.R.No.3211

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MT (CO)
PBS/15/02/2022