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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2022

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THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.No.16372 of 2019

and

Crl.M.P.No.8210 of 2019

1.M/s.Scader Private Limited,
Represented by its Director,
Mrs.Shalini & Mr.Sathish Kumar.

2.Sherlin ... Petitioners/Accused 1 & 2

Versus

K.Anbu ... Respondent/Complainant

Prayer: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code to call for the records culminated in C.C.No.201 of 2018 on the file of the Fast Track Court at Magistrate level Alandur and quash the same.

For Petitioners : Ms.M.Karpagam

For Respondent : Mr.A.Kumana Raja

ORDER

This Criminal Original Petition has been filed seeking to quash C.C.No.201 of 2018 on the file of the Fast Track Court at Magistrate level Alandur.

2. The learned Counsel for the Petitioners submit that the petition filed before the learned Judicial Magistrate, Fast Track Court, Alandur in C.C.No.201 of 2018 for a private complaint filed under Section 138 of Negotiable Instruments Act, 1881. He referred to the averments in paragraph No.3 of the private complaint filed before the learned Judicial Magistrate, Fast Track Court, Alandur, which is extracted hereunder:

"3.The Complainant submits that one Mr.Christopher, the husband of the 2nd accused was employed under the Complainant in his company and



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during the course of his employment the said Mr.A.Christopher indulged in criminal activities such as diverting huge sums to the individual account of the 2nd accused to the tune of Rs.37,00,000/- by transfer of fund between the period from January, 2016 and 2017. The 2nd and 3rd accused herein who actively colluded with the said A.Christopher got all the huge sum transferred into the individual account of the 2nd accused herein and with that fraudulent income the 2nd and 3rd accused floated the Company viz., the 1st accused herein. The Complainant on coming to know of the fraudulent activities of the 2nd and 3rd accused herein, demanded all the accused and the said A.Christopher to return the said sum of Rs.37,00,000/- to him immediately otherwise he would initiate appropriate criminal proceedings against all the accused. At that time the 2nd and 3rd accused herein requested the Complainant not to initiate any criminal action and also promised to settle the entire sum of Rs.37,00,000/-."

3. Further, it is the contention of the petitioners that the petitioners denies the averments in the complaint that the husband of one Sherlin/2nd accused was the employee of the company of the respondent/defacto complainant, where he misappropriated a sum of Rs.37,00,000/- as per the respondent. This fact is disputed by the petitioners and he has never been in the service of the defacto complainant. Further, submitted that the cheque of the petitioner was missing. Therefore, she had given letter to the bank concerned to "stop payment". Based on the same, the bank had not paid any amount. The respondent herein is no way connected to the petitioners. The petitioners are not aware that how the respondent had custody of that cheque. Based on the said cheque, the respondent had preferred a complaint as though the petitioner had committed offence attracting Section 138 of the Negotiable Instruments Act.

4. The learned Counsel for the Respondent/defacto complainant vehemently objects to quash the complaint in C.C.No.201 of 2018 on the file of the learned Judicial Magistrate, Fast Track Court, Alandur stating that the averments stated by the petitioner to be considered as valuable defence during the trial. This Court exercising discretion under Section 482 of Cr.P.C. cannot consider those things that are raised by the petitioners in this case and therefore, he seeks dismissal of this petition.



5. Considering the submission of the rival parties, the submissions of the learned counsel for the respondent is found acceptable. Considering the guidelines issued by the Hon'ble Supreme Court in the case of State of Haryana Vs. Bhajan Lal, wherein the Hon'ble Supreme Court has deprecated the practice of quashing the private complaint and quashing FIR exercising discretion under Section 482 of Cr.P.C.

6. In view of the above, the learned Judicial Magistrate, Fast Track Court, Alandur is directed to dispose of the complaint in C.C.No.201 of 2018 within a period of three months from the date of receipt of a copy of this order or from the date of uploading of this order in the website of the High Court. Further, the learned Judicial Magistrate, Fast Track Court, Alandur is also directed to pass appropriate orders if the petitioners files any application to dispense with the personal appearance of the petitioners.

7. With the above directions, this Criminal Original Petition is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-CCC)

//True copy//

Sub Assistant Registrar

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To

1.The learned Judicial Magistrate,
Fast Track Court, Alandur.

2.The Public Prosecutor,
Madras High Court,
Chennai.

+1cc to Mr.A.Kumana Raja, Advocate SR.No.25980

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SSD(CO)
GMV(05/05/2022)