



Crl.O.P.No.23039 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2022

CORAM:

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.O.P.No.23039 of 2022
and
Crl.M.P.Nos.14753 & 14754 of 2022

M/S.Rio International
Rep by its Managing Partner,
Mr.Mallikarjunan, KN
No.128-129, A R Street,
Janaki Nagar, Valasaravakkam,
Chennai

... Petitioner

Vs.

G K Developments Pvt Ltd
Represented by its Managing Director,
Mr.Karthick Gunasekaran
No.42, Basement Floor, North Phase,
Industrial Estate, Ekattuthangal, Chennai 600 032.

... Respondent

PRAYER: Criminal Original Petition filed under 482 of Cr.P.C., pleased to call for the records relating to STC.No.3935 of 2022 on the file of V FTC at Magistrate Level for trial cases under Negotiable Instruments Act at Saidapet, Chennai and quash the same.

For Petitioner : Mr.S.Arivazhagan



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ORDER

This Criminal Original Petition has been filed to call for records relating to STC.No.3935 of 2022 on the file of V FTC at Magistrate Level for trial cases under Negotiable Instruments Act at Saidapet, Chennai and quash the same.

2. The learned counsel for the petitioner has submitted that the petitioner is an accused in STC.No.3935 of 2022 on the file of V FTC at Magistrate Level for trial cases under Negotiable Instruments Act at Saidapet, Chennai. The respondent / complainant has filed a complaint against the petitioner for dishonour of cheque bearing No.021429 dated 31.03.2021 for the amount of Rs.1 Crore, drawn on Central Bank of India, Valasaravakkam Branch, Chennai. He further contended that there is an arbitration agreement dated 14.06.2016 under Clause 12 of the Agreement between the petitioner and the defacto complainant with regard to the dispute of business transaction and further arbitration proceedings in Arbitration OP.No.302 of 2022 initiated against the petitioner is pending before this court. Therefore, for dishonour of cheque, criminal proceeding



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is not maintainable and he seeks to quash the complaint against the petitioner. He further seeks permission of this court to dispense with the personal appearance of the petitioner before the trial court by way of Crl.MP.No.14754 of 2022.

3. I have considered the submission of the learned counsel appearing for the petitioner.

4. A perusal of the records would reveal the fact that the petitioner is an accused in STC.No.3935 of 2022 on the file of V FTC at Magistrate Level for trial cases under Negotiable Instruments Act, Saidapet, Chennai. The respondent has filed a complaint against the petitioner for dishonour of cheque given by the petitioner for discharging his liability and the cheque bearing No.021429 was issued on 31.03.2021 drawn on Central Bank of India, Valasaravakkam Branch, Chennai, which was returned as 'funds insufficient'. After issuing a legal notice, the respondent/complainant has filed this complaint against the petitioner and the contention of the learned counsel for the petitioner is that when there is an arbitration agreement



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dated 14.06.2016 under Clause 12 of the Agreement in Arbitration

OP.No.302 of 2022 is pending before this court, seeking an appointment of

Arbitrator, the present criminal petition against the petitioner is not legally

sustainable. In this connection, the Supreme Court in ***Trisuns Chemical***

Industry Vs. Rajesh Agarwal and Others reported in ***1999 (8) SCC 686***

held that “*Arbitration is a remedy for affording reliefs to the party*

affected by breach of the agreement but the arbitrator cannot conduct a

trial of any act which amounted to an offence albeit the same act may be

connected with the discharge of any function under the agreement.”

In view of the above decision of the Hon'ble Supreme Court, I find no merit in this case and this prayer for quashing the complaint, is not sustainable.

5. In the result, this Criminal Original Petition is dismissed. However, considering the submission made by the learned counsel for the petitioner, seeking personal appearance of the petitioner before the trial court by way of Crl.MP.No.14754 of 2022, is dispensed with a condition that he shall appear before the trial court for further proceeding whenever



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required by the trial court. Consequently, connected miscellaneous petition

in Crl.MP.No.14753 of 2022 is closed.

13.10.2022

Index : Yes/No

Internet : Yes/No

gv

To

The V FTC at Magistrate Level for
trial cases under Negotiable Instruments Act,
Saidapet, Chennai



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V.SIVAGNANAM ,J.

gv

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