



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.Nos.21693 & 22414 of 2021

and

Crl.M.P.Nos.11791, 11792 , 12181 & 12183 of 2021

F.N.Durai
Proprietor,
Cliff India Corporation,
S/o.Fancy Nachimuthu,
No.26, N.G.R.Nagar,
K.P.N.Colony Extension,
Tiruppur.

... Petitioner in both Crl.O.Ps.

Vs.

K.K.P.Spining Mills (P) Ltd.,
A Company incorporated under
Companies Act Represented by its
Senior Manager cum Power Agent,
P.Raaja, S/o.Palanisamy,
No.88, Salem Main Road,
K.K.P.Buildings, Namakkal Town,
Namakkal Taluk & District,
Tamil Nadu.

... Respondent in both Crl.O.Ps.

COMMON PRAYER: Criminal Original Petitions filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the case in C.C.Nos.260 & 261 of 2018, respectively, pending Trial on the file of the Judicial Magistrate No.1, Namakkal and quash the same with regard to this petitioner.

For Petitioner : Mr.K.G.Senthilkumar

COMMON ORDER

These Criminal Original Petition has been filed to call for the records relating to the case in C.C.Nos.260 & 261 of 2018, respectively, pending trial on the file of the Judicial Magistrate No.1, Namakkal and quash the same with regard to the petitioner.



2.The grievance of the petitioner is that the petitioner facing prosecution on the complaint of the respondent. The specific case of the respondent/complainant is that the petitioner had failed to pay the amount of Rs.11,87,525/- by invoice no.314 and Rs.16,70,740/- by invoice no.320 in total Rs.28,58,562/- to be paid. The petitioner in the meanwhile paid Rs.6,25,000/- to the credit of each of the invoice on 27.04.2016 and 01.06.2016 and balance amount to be paid is only Rs.16,08,565. Suppressing these facts, the respondent/complainant had filed complaint in C.C.Nos.260 & 261 of 2018 that the petitioner had issued cheques for Rs.10,00,000/- and Rs.7,60,185/- totally for Rs.17,60,185/- without having sufficient amount in his account which is not legally enforceable.

3.This Court finds that the above point raised by the learned counsel for the petitioner is factual in nature and the same should be raised in the trial Court and not in the quash petitions. Therefore, this Court is not inclined to entertain these petitions.

4. The learned counsel for the petitioner seeks exemption of the personal appearance of the petitioner before the trial Court, due to the health ailments of the petitioner. He further submits that this exemption would not in anyway cause delay in the trial and he undertakes to file an affidavit to that effect.

5. The petitioner is directed to file an affidavit stating that the trial can be conducted in the absence of the petitioner and he shall not dispute the identity and records marked in his absence and will not be a reason for the delay of the trial. On getting such affidavit, the petitioner's personal appearance can be exempted. Accordingly, these Criminal Original Petitions are dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

sli



To:

1. The Judicial Magistrate, No.1,
Namakkal.

WEB COPY

+2ccs to M/s.G.Mohana Krishnan, Advocate, S.R.Nos.2939 & 2940

CRL.O.P.Nos.21693 & 22414 of 2021

KSM(CO)
SU(07/02/2022)