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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2022

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRL.O.P.NO.23602 OF 2019

AND

CRL.M.P.NO.12437 OF 2019

1. RIDER DISTRIBUTORS,
Rep. by its Partner Mr.Karthik,
S/o.Mr.Purushottam and
Christina W/o.Karthik
47, Mahakavi Bharathiyar Street,
Ra Nagar Extn.,
Urapakkam West - 603 211.

2. Christina Karthik

... Petitioners

.Vs.

S.Mohamed Anas

... Respondent

PRAYER:-

Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records of C.C.No.3569 of 2019 pending on the file of the Metropolitan Magistrate FTC-I, Allikulam and quash the same.

For Petitioners : Mr.M.S.Niranjana
For M/s.S.P.Arthi

For Respondent : Mr.M.Mohammed Riyaz

ORDER

This Criminal Original Petition is filed to quash the criminal complaint initiated under Section 138 of Negotiable Instruments Act against three accused, wherein, the subject cheque was drawn only by the 2nd accused/Karthik from the account maintained by him in his personal name.



2. The short point canvassed by the petitioner is that the 1st petitioner, is the Rider Distributor and the 2nd petitioner is one Christina Karthik are not the signatory to the cheque. The cheque was issued only by one Karthik for his personal banking. While so, roping these petitioners on the premise that they are the partners of the Rider Distributors, in which, the authorised signatories are Karthik and his wife Christina Karthik, the vicarious liability for registering the case against the partnership firm, when the cheque itself was not drawn from the so called account maintained by the partnership firm, but by the individual.

3. The ingredients of 138 of N.I.Act, which speaks about vicarious liability of the Directors of the Company or any legal entity will not apply and therefore, this Court holds that any complaint against non signatory to the cheque whatever be their commitment or promise to honour the cheque will not give any right to the complainant to rope them in a private complaint initiated for the offence under Section 138 of N.I.Act. If at all the complainant has grievance against the persons who assured the payment, then the remedy is elsewhere and not the private complaint under Section 138 of N.I.Act.

4. Subject to the above, this Criminal Original Petition to quash the private complaint is allowed. Consequently, connected Criminal Miscellaneous Petition is also disposed of. The complaint registered against the 1st and 3rd petitioners is quashed. The respondent/complainant shall proceed against the 2nd accused who is the signatory of the company. The stay granted by this Court is vacated. The trial Court shall proceed against the 2nd accused and dispose of the complaint as early as possible, preferably within a period of six months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

rpl



To

The Metropolitan Magistrate FTC-I,
Allikulam.

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+1cc to M/s.S.P.Arthi, Advocate, S.R.No.39750
+1cc to Mr.J.Vetrivel, Advocate, S.R.No.39462

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NRL (CO)
PBS/08/07/2022