



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 31.01.2022

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No.28083 of 2018
and
Crl.M.P.Nos.16328 & 16329 of 2018

Rajamurugan Textiles
Rep. by its Authorised Signatory,
Jagadeesan.N
Old No.29, New No.25, 6th Pulikkuthi Street,
1st Floor No.6 Gugai,
Salem - 636 006.

2.J.SujathaPetitioners/ Accused 1 and 5

[This Crl.OP is dismissed insofar as the 1st petitioner
is concerned as per the order of this Court dated 03.12.2018
in Crl.OP.No.28083 of 2018 and Crl.M.P.Nos.16328 and
16329 of 2018]

Versus

M/s.Reliance Commercial Finance PVT Ltd
(formerly known as Reliance Capital Ltd)
Represented by its legal manager,
R.Kumaran
No.5, Haddows Road, Nungambakkam,
Chennai - 600 006.

.....Respondents

PRAYER : Criminal Original Petition filed under Section 482 of
Cr.P.C. to call for the records and quash the complaint in
C.C.No.6092 of 2018 pending on the file of the Fast Track Court-
III (Metropolitan Magistrate) Saidapet, Chennai.

For Petitioner : Mr.P.Tamilavel

For Respondent : Mr.K.B.Vivekanandan

O R D E R

This Criminal Original Petition has been filed to quash the
complaint in C.C.No.6092 of 2018 pending on the file of the Fast
Track Court-III (Metropolitan Magistrate) Saidapet, Chennai.



2.This Court vide order dated 03.12.2018 dismissed the present petition insofar as the first petitioner is concerned.

3.The first accused in the instant case is a Textile Company represented by its authorised signatory/Jagadeesan N. who is A3 and they belong to the Hindu Undivided Family, third accused is Jagadeesan NS, fourth accused is Kavitha Exports; and the second petitioner herein/fifth accused is the wife of the third accused. The case of the complainant is that the accused persons approached the complainant for obtaining loan and an agreement for loan was entered into between the complainant and the accused persons. Further, the accused issued a cheque for a sum of Rs.6,45,960/- to the complainant towards the part payment of the loan. On 25.04.2018, when the complainant had presented the cheque for encashment, the same was dishonoured with an endorsement 'Funds Insufficient'. Hence, the complaint was filed.

4.The learned counsel for the petitioners submitted that there is no specific averment or allegation against the 2nd petitioner, who is the wife of one Jagadeesan.N and she is no way connected to the transaction and hence, she cannot be prosecuted under Section 138 of Negotiable Instruments Act, 1881 and therefore, the private complaint is liable to be quashed as against the 2nd petitioner.

5.Heard the learned counsel for the petitioners and the learned counsel for the respondent and also perused the materials available on record.

6.On a perusal of the complaint, it reveals that the loan has been obtained in the name of the Company, which has been arrayed as first accused in the present complaint, but there is no specific allegation against the second petitioner herein. Further, the cheque, which is in question, has been signed only by the said Jagadeesan on behalf of first accused/Company and the second petitioner herein is no way responsible for issuance of cheque on behalf of the first accused and no allegation whatsoever has been made in the complaint against the second petitioner herein. Therefore, the second petitioner, who is arrayed as fifth accused, is unnecessarily implicated in C.C.No.6092 of 2018 without making any averment in the complaint. Therefore, without there being any sufficient averment, the second petitioner is not vicariously liable for the alleged transaction.

7.In such view of the matter, this Criminal Original Petition is partly allowed and the complaint in C.C.No.6092 of 2018 pending before the learned Metropolitan Magistrate, East



Track Court-III, Saidapet, Chennai is quashed in respect of the second petitioner alone, who has been arrayed as fifth accused, as the cheque was issued by one Jagadeesan on behalf of the first accused/Company and the prosecution case shall be continued as far as the first accused is concerned. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

ms

To

The Fast Track Court-III
(Metropolitan Magistrate)
Saidapet, Chennai.

Crl.O.P.No.28083 of 2018
and
Crl.M.P.Nos.16328 & 16329 of 2018

KV(CO)
SU(21/02/2022)