



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09/03/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

CrI.O.P. (MD)No.8030 of 2019

and

CrI.MP (MD)Nos.4950 and 4951 of 2019

WEB COPY

1.Sri Sai Traders,
613/1 & 2C,
Athipalayam Road,
Chinnavedampatti,
Coimbatore-641 049.

2.Karthikeyan,
Proprietor,
Sri Sai Traders,
613/1 & 2C,
Athipalayam Road,
Chinnavedampatti,
Coimbatore-641 049.

: Petitioners/Accused

Vs.

Jaya Yeya Agro Food Products (P) Ltd.,
and its Managing Director,
represented through its Manager,
Mr.Kannan.

: Respondent/Complainant

Prayer:Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in CC No.47 of 2019 on the file of the Judicial Magistrate, Fast Track Court, Karaikudi and quash the same against the petitioners.

For Petitioners : Mr.K.Gokul
For Respondent : Mr.R.Sundar Srinivasan

O R D E R

This criminal original petition has been filed by the petitioners seeking quashment of the case in CC No.47 of 2019 on the file of the Judicial Magistrate, Fast Track Court, Karaikudi.

2.The case of the prosecution in brief:-

In the course of business transaction between the complainant the accused persons, who are the petitioners herein towards the discharge of the outstanding amount, the petitioners alleged to have issued the disputed cheques, which were also presented for payment, dishonoured and after completing the statutory formalities, the complaint has been filed for punishing the petitioners under section 138 of the Negotiable Instruments Act.



3. Seeking quashment of the above said complaint, this petition has been filed.

4. Heard both sides.

5. The notice, which was issued by the petitioners as well as the reply notice that was sent by the de-facto complainant to the accused persons throw much light upon the controversy between the parties. We can straightaway go to the defence in the reply notice to find out whether this court can exercise the jurisdiction under section 482 Cr.P.C to quash the complaint. The execution and handing over of the two disputed cheques bearing No.000366, dated 06/12/2018 for a sum of Rs.2,64,000/- and the cheque bearing No.000367, even dated, a sum of Rs.2,64,500/- is admitted by the petitioners. But they disputed the liability on the ground that these cheques were issued only as security for payment of the amount, which were due in the course of the transaction.

6. According to the petitioners, as per the usual practice that was adopted between the parties, usually advance cheques as security will be issued for each and every transaction in advance. After the transaction is over, the amount will be remitted to the account of the complainant through RGST process. After that, the cheque, which was issued as security will be returned back to the petitioners. This is the usual practice adopted and followed. Only on such occasion, these disputed cheques have been issued, but the transaction failed because of the supply of the substandard rice. So the petitioners demanded return back the rice on 15/12/2018 numbering 219 bags. That was also received by the complainant. The value of the above said returned rice is Rs.3,15,000/-. The balance amount of Rs.20,000/- was transferred by way of RTGST, on 28/12/2018 and cash amount of Rs.50,000/- was also paid towards the balance amount. So according to the petitioners, totally Rs.3,85,000/- was paid. But in-spite of promise made by the complainant to replace the defective goods, that was not properly complied. So according to the petitioners, the respondent is bound to supply the rice worth about Rs.1,62,050/-. According to them, the liabilities as stated in the complaint and notice are not correct. In the light of the above said defence taken by the petitioners, the question which arises for consideration is whether the court can go into the disputed facts under section 482 Cr.P.C.

7. But I am of the considered view that such an exercise cannot be made by this court. So absolutely, I find no merit worth considering in respect of the factual issues. The legal issue that has been raised by this court is that the cheques have been issued only by the 2nd petitioner.

8. Perusal of the complaint as well as notice that has been exchanged between the parties shows that the first petitioner is a partner in the business and the 2nd petitioner is also a partner and he is also



the authorised signatory. Even though, it has been mentioned as company, it is a Firm. So the Firm has been impleaded as A1. The partner, who has drawn the cheque has been impleaded as A2. So on this ground also, I find no substance in the argument advanced by the petitioners.

WEB COPY

9.The learned counsel appearing for the petitioners would rely upon the judgement of this court in the case of P.S.Arul Kumar Vs. Ajeez Ahamed and 3 others (Crl.OP No.25668 of 2012, dated 11/10/2017) for the purpose of argument that no specific averment is made in the complaint to show that the petitioners are responsible for the day today activities of the Firm. So according to him, in the absence of any such specific firm in the complaint, it does not satisfy the requirement of law.

10.I am unable to agree with this line of argument, for the simple reason that absolutely, there is no denial in the reply notice to the effect that it is a partnership firm and the 2nd petitioner is the authorised signatory or the executor of the cheque. What has been denied is only the transaction. So, I find absolutely no merit in this petition and the petitioners must undergo the trial process to its logical conclusion.

11.In the result, this criminal original petition is **dismissed**. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

er

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Judicial Magistrate, Fast Track Court, Karaikudi.

+1 CC to M/s.R.SUNDAR SRINIVASAN, Advocate (SR-11267[F] dated 10/03/2022)

+1 CC to M/s.K.GOKUL, Advocate (SR-11016[F] dated 10/03/2022)

Crl.O.P. (MD)No.8030 of 2019

09/03/2022

RK(19/04/2022) 3P 4C

<https://hcservices.ecourts.gov.in/hcservices/>