IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.15965 of 2016

1.Sabrina
2.Ulfath Jabeen .... Petitioners

Vs

1.M/s.Atlantic Leather Exports,
Represented by Md.Asad,
S/o.Nasirul Hoda,
No.8F, Patnool Sardar Jung Street,
Periamet, Chennai – 3.

2.M/s.EFFEL Exports Limited,
Represented by its Authorised Signatories,
i. P.Hafeez Ahmed
ii. D.Md.Tajuddeen
Flat No.8, 1st Floor,
Ruby Castle,
No.64, Rajah Muthiah Road,
Chennai – 600 003.

3.P.Hafeez Ahmed
4.D.Md.Tajuddeen .... Respondents

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records and quash the complaint and all further proceeding in C.C.No.780 of 2015 on the file of the Fast Track Court No.I, (Magistrate Level), Egmore, Chennai.

For Petitioners : Mr.S.Arumugam

For R1 : Mr.N.Baskaran

ORDER

Today, the matter is listed under the caption "Entire Bundle not available cases".

2. This Criminal Original Petition has been filed to quash the proceedings in C.C.No.780 of 2015 on the file of the Fast Track Court No.I (Magistrate Level), Egmore, Chennai.

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. The first respondent filed a complaint for the offence punishable under Sections 138 and 141 of Negotiable Instruments Act. The crux of the allegation is that the first respondent is exporting skins of goats for the purpose of manufacturing leather and its allied products. The first accused is the Company, viz., M/s.EFFEL Exports Limited, represented by the third and fourth respondents, who are the Directors and authorised signatories of the first accused Company. They placed orders and purchased wet blue goat skins from the first respondent. Pursuant to the purchase, the first respondent raised invoices and the accused are liable to pay a sum of Rs.13,23,050/-. They paid a sum of

Rs.5,00,000/- and for the balance amount, they issued two cheques. Both the cheques were presented for collection and the same was returned with an endorsement "Payment Stopped by the Drawer". After causing statutory notice, the first respondent lodged a complaint.

5. On receipt of the complaint, the Trial Court had taken cognizance in C.C.No.780 of 2015. There are totally five accused, in which the petitioners are arrayed as A4 and A5. Even according to the case of the first respondent, the petitioners have been implicated as accused since they are shareholders in the first accused Company. Though they were initially hold the post of Directors, thereafter, they resigned their Directorship and the same was duly accepted by the Registrar of Companies, Ministry of Corporate Affairs. They also filed a request form before the Registrar of Companies and the same was duly recorded. Accordingly, both the petitioners had resigned from their Directorship on 25.07.2014. The alleged cheques were issued on 18.09.2014 and 30.09.2014. In fact, on receipt of the statutory notice, the petitioners replied and categorically stated that they were not holding the post of Directors in day to day affairs of the first accused Company. They were no way responsible for the act committed by the first accused Company. Admittedly, the first accused is a Company, represented by its

Directors, viz., the third and fourth accused. They are the signatories of the alleged cheques.

6. A perusal of the records reveals that the petitioners were resigned their respective Directorship much before the issuance of the cheques and their resignation was also approved by the Board of Directors in the Board Meeting held on 25.07.2014. Thereafter, the notice of resignation of the Director was sent to the Registrar of Companies. On receipt of the same, on 19.08.2014, the Registrar of Companies, Ministry of Corporate Affairs had issued receipt for having received the fee payable in this regard. It is not the case of the first respondent that the petitioners issued the alleged cheques. In fact, the petitioners are shareholders of the first accused Company. Therefore, the shareholders cannot be added as accused, while the Company and its Directors committed offence. That apart, already the petitioners had resigned their Directorship of the Company. Therefore, no offence is made out as against the petitioners and the entire proceedings cannot be sustained as against the petitioners and it is liable to be quashed.

7. In view of the above, the proceedings in C.C.No.780 of 2015 on the file of the Fast Track Court No.I, (Magistrate Level), Egmore, Chennai, is hereby quashed as against the petitioners alone.

Accordingly, this Criminal Original Petition stands allowed. The Trial Court is directed to proceed with the trial as against A1 to A3 and complete the same within a period of three months from the date of receipt of a copy of this order.

28.11.2023

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Index:Yes/No
Internet:Yes/No

To

The Metropolitan Magistrate,
Fast Track Court No.I, (Magistrate Level),
Egmore, Chennai.

G.K.ILANTHIRAIYAN,J.

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