



WEB COPY

Crl.O.P.No.5584 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.11.2023

CORAM :

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.5584 of 2023

and

Crl.M.P. Nos.17246, 3509 & 3510 of 2023

Mr.Karthik Vyas

... Petitioner

-VS-

- 1.Mr.Gopalji Agarwal Prop of
India Aluminium Trading Co,
Rep. by his Power of Attorney Agent,
Mr.Ramesh Babu
- 2.Mr.Aluminium India,
Rep. by its Partner,
Mr.Suresh Vyas
- 3.Mr.Niranjan Vyas,
Partner of M/s.Aluminium India
- 4.Mr.Suresh Vyas,
Partner of M/s.Aluminium India

...Respondents

PRAYER : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records in C.C. No.2618 of 2017 pending on the file of the learned VII Metropolitan Magistrate, George Town, Chennai and quash the same as against the petitioner is concerned.

For Petitioner	: Mr.A.Mohan
For Respondent 1	: Mr.Siddharth Bahety



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ORDER

This petition is filed under Section 482 of Cr.P.C by one of the accused in the private complaint instituted under Section 138 of the Negotiable Instruments Act, 1881. The contention of the petitioner herein is that as per the terms of the partnership firm, he is not entitled to operate the bank account of the partnership firm and therefore, having no knowledge about the issuance of cheque and not being a person acting in day to day administration of the business, he cannot be prosecuted.

2. In support of his submission, the learned counsel for the petitioner also rely upon the Judgment of the Hon'ble Supreme Court in ***Ashok Shewak Ramani and Ors. Vs. State of Andra Pradesh and Anr.***, reported in (2023 (INSC) 692). This Court initially has granted interim stay of further proceedings, after notice, the complainant has filed a vacate stay petition and the matter is heard today by this Court.

3. After hearing the representation made by the learned counsel and perusing the records, this Court finds that the petitioner herein admits that he is one of the partner of the first accused firm which has issued the cheque, duly signed by one of the authorised signatory viz., the second accused. After dishonoring of the cheque, statutory notice has been issued to all the partners including the petitioner herein but the petitioner has not chosen to reply the



statutory notice putting forth the contention what he has placed before this Court in his quash petition.

4. Since, he has not replied to the statutory notice, the complainant has bonafidely filed the case including this petitioner being the partner of the firm which has issued the cheque. If the petitioner is not an active partner in the firm and not involved in the day to day affairs of the firm which he has not brought to the notice of the complainant before filing the complaint. Now cannot believe that it is a malicious prosecution to interfere by the High Court under Section 482 Cr.P.C.

5. It is now open to the petitioner to participate in the trial and putforth his contention and contest the case. Hence, this Criminal Original Petition is dismissed with cost of Rs.1000/- payable to the District Legal Services Authority, Madras. The trial Court on proof of payment of the costs shall permit the petitioner herein to participate in the trial. Consequently, connected Miscellaneous Petitions are also dismissed.

08.11.2023

Internet : Yes/No
Index : Yes/No
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Crl.O.P.No.5584 of 2

Dr.G.JAYACHANDRAN, J.

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To

1.The VII Metropolitan Magistrate,
George Town, Chennai

3. The Public Prosecutor,
Madras High Court, Madras.

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