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Crl.O.P.No.4828 and 5996 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2023

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THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.Nos.4828 and 5996 of 2021

and

Crl.M.P.Nos.3076 and 3919 of 2021

1. K.Rukmani

2. B.Vinodhini

... Petitioners in Crl.O.P.No.4828 of 2021

K.Balaji

... Petitioner in Crl.O.P.No.5996 of 2021

Vs.

M/s.Rishabh Triexim LLP,
Represented by its Partner,
Mr.Swaroop J.Bagrecha,
No.69, 2nd Floor,
Wall Tax Road,
Chennai 600 003

... Respondents in both Crl.O.Ps

PRAYER in Cr.O.P.No.4828 of 2021: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records of the proceedings in C.C.No.1202 of 2020 on the file of the IV FTC Metropolitan Magistrate Court, George Town, pending disposal of this Criminal Original Petition.



Crl.O.P.No.4828 and 5996 of 2021

PRAYER in Cr.O.P.No.4828 of 2021: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records pertaining to the case in C.C.No.1202 of 2020 on the file of the IV FTC Metropolitan Magistrate Court, George Town, Chennai quash the same by allowing this quash petition.

For Petitioners : Mr.Harikrisnan for
in Crl.O.P.No.4828 of 2021 Mr.Govind Chandrasekhar

For Petitioners : Mrs.A.Puviyarasi for
in Crl.O.P.No.5996 of 2021 Mr.Govind Chandrasekhar

For Respondents
in both Crl.O.Ps : Mr.A.Natarajan,
Senior Counsel
for Mr.C.P.Palanichamy

COMMON ORDER

These criminal original petitions have been filed by the accused 2 to 4 in C.C.No.1202 of 2020 for quashing the complaint under Section 138 of N.I.Act.

2.It is alleged in the complaint that the 1st accused was due to make payment to the complainant and had issued three cheques in favour of the complainant; that the said cheques were presented for



collection and were returned with an endorsement “stopped by the Drawer”; that in spite of the statutory notice, the accused did not make the payment.

3.The learned counsel for the petitioners/A2 and A4 in Crl.O.P.No.4828 of 2021 would submit that there is absolutely no allegation against these petitioners so as to attract the provisions of Section 141 of N.I.Act. Except for a vague allegation that the accused 1 to 4 had availed the credit facilities from the respondent, there is no allegation that the petitioners were in-charge of and responsible to the 1st accused Company for the conduct of its business.

4.The learned counsel for the petitioner in Crl.O.P.No.5996 of 2021 would submit that the petitioner/A3 had issued blank cheques to the respondent for security purposes, which has been misused by the respondent.



5.Mr.A.Natarajan, learned senior counsel appearing for the respondent in both Crl.OPs would submit that in paragraph 6 of the complaint, there is an allegation that all the accused had availed the credit facilities from the respondent. The impugned complaint cannot be quashed and the points raised by the petitioners can be adjudicated only before the trial Court.

6. On perusal of the impugned complaint, it is seen that except for a vague statement that accused 1 to 4 had availed the credit facilities from the respondent, there is absolutely no allegation against the petitioners in Crl.O.P.No.4828 of 2021. The basic averment to invoke Section 141 of N.I.Act is not found in the impugned complaint. Therefore, the impugned complaint deserves to be quashed insofar as the petitioners/Accused 2 and 4 in Crl.O.P.No.4828 of 2021. Accordingly, the proceedings against the petitioners/A2 and A4 in C.C.No.1202 of 2020 on the file of the IV FTC Metropolitan Magistrate Court, George Town, Chennai are alone quashed. **Crl.O.P.No.4828 of 2021 is allowed.**



Crl.O.P.No.4828 and 5996 of 2021

8.As regards the points raised by the petitioner in

Crl.O.P.No.5996 of 2021, this Court is of the view that the same is factual in nature and has to be adjudicated only before the trial Court. Hence, this Court is not inclined to quash the proceedings in so far as the petitioner/A3 in Crl.O.P.No.5996 of 2021. **Accordingly, Crl.O.P.No.5996 of 2021 is dismissed.** The learned IV FTC Metropolitan Magistrate Court, George Town, Chennai may conduct the trial as expeditiously as possible and conclude it preferably within a period of 6 months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

13.04.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation :Yes/No
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To

1. The IV FTC Metropolitan Magistrate Court, George Town, Chennai
2. The Public Prosecutor, High Court, Madras.



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SUNDER MOHAN. J,

srn

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and
Crl.M.P. Nos.3076 and 3919 of 2021

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