



WEB COPY



Crl.O.P.No.6523 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2023

CORAM:

THE HON'BLE MR.JUSTICE **SUNDER MOHAN**

Crl.O.P.No.6523 of 2021 and
Crl.M.P.Nos.4327 & 4329 of 2021

- 1.T.Rafeeqe Ahmed
- 2.B.Due-e-Nazz
- 3.T.Ambreen Kousar
- 4.T.Mushkura
- 5.H.Mahmood Akthar
- 6.T.Fawaz Ahmed
- 7.T.Fatima Zahara
- 8.T.Moonis Abdul Wahid
- 9.Minor Ayesha Mumtaz
- 10.Minor T.Zayid Abdul Rahim

Petitioners 9 and 10 being Minors are
represented by their natural guardian
and father Mr.T.Faizan Ahmed

... Petitioners

Vs.

M.Selvamani

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in S.T.C.No.66 of 2021, pending on the file of the Hon'ble Addl. District Munsif cum Judicial Magistrate, Ambur, Tiruppattur District and quash the same against the petitioners herein.

For Petitioners : Mr.K.M.Aasim Shehzad



Crl.O.P.No.6523 of 2021

For Respondent : Ms.S.Thamizharasi

WEB COPY

ORDER

This petition is filed to quash the complaint filed under Section 138 of the Negotiable Instruments Act.

2. It is alleged in the complaint that the first accused company had issued a cheque for Rs.1,42,219/- towards discharge of the amount due to the defacto complainant. The said cheque was signed by the fourth accused/T.Faizan Ahmed. It is further alleged that the other accused/petitioners herein are the partners in the said firm. The complainant had sent a statutory notice and in spite of receipt of the same, the company had not made the payment. Hence, the complaint.

3. Learned counsel for the petitioners would submit that the petitioners are not in charge of and responsible to conduct the business of the first accused company. The cheque was signed by the fourth accused. There are several complaints filed by the employees of the first accused company and in all the complaints, only the firm and the signatory, namely T.Faizan Ahmed, have been shown as the accused. Apart from stating that the petitioners are the



partners of the first accused company, there is no allegation to the effect that they are in charge of and was responsible for the conduct of the business of the first accused company so as to attract the provisions of Section 141 of the Negotiable Instruments Act.

4. Learned counsel for the respondent would submit that the respondent made an application under RTI Act to the Public Information Officer, Joint Director Industrial Safety and Health, Division II, Vellore, to ascertain as to who are the partners in the first accused company and that in the reply sent under the RTI Act, the petitioners were shown as partners of the first accused company.

5. This Court finds that the allegation against the petitioners is that they are partners of the first accused company. Except the allegation that accused 2 to 12 are the partners of the first accused company, there is no allegation in the impugned complaint to show that they were in charge of and responsible to the first accused company for the conduct of its business. That apart, the petitioners 9 and 10 arraigned as accused 11 and 12, are minors aged about 16 and 13 respectively. The petitioners 6 to 8 are aged between 20 and 25 years.



Crl.O.P.No.6523 of 2021

Therefore, this Court is of the view that the proceedings against the petitioners alone is liable to be quashed for want of necessary allegations to invoke Section 141 of the Negotiable Instruments Act.

6. However, since it is admitted that the fourth accused was the authorized signatory to the cheque, the trial Court shall proceed with the case in respect of the first accused company and the fourth accused T.Faizan Ahmed and complete the trial as expeditiously as possible. It is submitted that the case is at the argument stage and therefore, the trial Court is directed to complete the trial within a period of *three weeks* from the date of receipt of a copy of this order.

7. With the above observations, this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

21.03.2023

Index: Yes/No

Speaking / Non Speaking Order

kal



CrI.O.P.No.6523 of 2021

WEB COPY

To

1. The Addl. District Munsif cum Judicial Magistrate,
Ambur, Tiruppattur District
2. The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.O.P.No.6523 of 2021

SUNDER MOHAN, J

kal

Crl.O.P.No.6523 of 2021 and
Crl.M.P.Nos.4327 & 4329 of 2021

21.03.2023