



Crl.O.P.No.8464 of 2021

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2023

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THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P. No.8464 of 2021

&

Crl. M.P.No. 5576 of 2021

S.Venkatraman

... Petitioner

Vs.

U.R.Krishnan

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the C.C.No.1500 of 2019 on the file of the Fast Tract No.II, at Magisterial Level, Coimbatore and quash the same.



CrI.O.P.No.8464 of 2021

For Petitioner : Mr. C.Gunasekaran

For Respondent : No Appearance.

ORDER

The petition is filed to quash the private complaint filed for the alleged offences under Sections 138 & 142 of the Negotiable Instruments Act, read with Sections 199 and 200 of the Cr.P.C.

2. It is alleged in the complaint that the 1st accused company had issued a cheque in favour of the complainant for a sum of Rs.1 Crore, towards discharge of their liability. The petitioner / A2 is shown as the Director of the 1st accused Company. It is further alleged that A3, son of A2 had signed the cheque on behalf of the 1st accused company.

3. The learned counsel for the petitioner submitted that the cheque issued by the 1st accused company, as per the complaint is dated 15.05.2019. However, the said cheque was presented for collection of money on 10.05.2019 and the same was returned for the reason



Crl.O.P.No.8464 of 2021

“Funds Insufficient” on 13.05.2019. Therefore, the complainant had issued a statutory notice on 07.06.2019. On behalf of the 1st accused company, a reply notice was sent to the complainant on 22.06.2019, in which they had clearly stated that the petitioner had resigned from the company as early as on 31.03.2019. The learned counsel had produced the **FORM No.DIR-11** [Pursuant to proviso to Section 168 (1) of the Companies Act, 2013 and rule 16 of the Companies (Appointment and Qualification of Directors) Rules, 2014], Notice of resignation of a director to the Registrar, to substantiate the fact that the petitioner had resigned from the company as early as on 31.03.2019.

4. Though notice was served and a learned counsel had entered appearance for the 2nd respondent earlier, there was no representation for the 2nd respondent on 05.06.2023. Hence, the matter was posted under the caption “For Orders” today. Even today, there is no representation for the 2nd respondent.



Crl.O.P.No.8464 of 2021

5. This Court finds that the petitioner has produced an incontrovertible document, namely, **FORM No.DIR-11** showing that the petitioner had resigned from the company on 31.03.2019. The cheque was presented later on 10.05.2019. In view of the document produced by the petitioner, which cannot be refuted by the respondent and which establishes the fact that the petitioner was not incharge and responsible to the 1st accused company for the conduct of its business, this Court is inclined to quash the impugned complaint as against the petitioner alone. The learned Judicial Magistrate Fast Tract No.II, Coimbatore, may proceed with the case as against the other accused, in accordance with law.

6. With the above observation, the petition is allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

08.06.2023

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Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No



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Crl.O.P.No.8464 of 2021

To

1. The Judicial Magistrate Fast Tract No.II,
Coimbatore.



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Crl.O.P.No.8464 of 2021

SUNDER MOHAN. J,

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Crl.O.P.No. 8464 of 2021

08.06.2023