



Crl.O.P.No.12663 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.12663 of 2021

and

Crl.M.P.Nos.7021 & 7023 of 2021

Jeyasankar Ganesh Ram

... Petitioners

Vs.

T.S.Dakhinamurthy

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records pertaining complaint in C.C.No.4388/2020 on the file of FTC II Metropolitan Magistrate at Allikulam and QUASH the same and pass such other order or orders as this Hon'ble Court.

For Petitioners : M/s.D.Manimaran

For Respondent : No appearance



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ORDER

The petition is to quash the complaint under Sections 138 of the Negotiable Instrument Act.

2. It is alleged in the complaint that the 1st accused company had issued nine cheques for a total sum of Rs.5,52,542/-; that when the said cheques were presented for collection, it was dishonoured for the reason “insufficient funds” ; that the 1st accused company is therefore liable for the alleged offence and the petitioner had arraigned as the 4th accused as he is involved in the day to day affairs of the management of the 1st accused company.

3. The learned counsel for the petitioner submitted that the 1st accused company is one M/s.PSTS Logistics Private Limited. The petitioner was originally a director of the said company and he had resigned from the said company with effect from 05.10.2016; and that Form No.DIR-12 confirms the said fact; and hence, the petitioner cannot be said to be a person in charge of and responsible to the company for the conduct of its business in the year 2019, when the said cheques were issued.



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4. Though notice was sent and served on the 2nd respondent and his name is printed in the cause list, none has entered appearance for the 2nd respondent.

5. This Court finds that the impugned complaint as against the petitioner is liable to be quashed on the short ground that he had resigned from the company on 05.10.2016. The petitioner has produced an incontrovertible document in the form of Form No. DIR-12 which contains the particulars of appointment of directors and the changes among them. The said document confirms that the petitioner resigned from the 1st accused company on 05.06.2016. Hence, the petitioner cannot be said to be in charge of and responsible to the 1st accused company for the conduct of its business when the said cheques were issued in the year 2019.

6. Therefore, this Court is inclined to quash the complaint in so far as the petitioner alone is concerned. The learned Magistrate may proceed against the other accused in accordance with law.



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Consequently, the connected Miscellaneous Petitions are closed.

28.04.2023

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

1. The FTC II Metropolitan Magistrate at Allikulam.



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SUNDER MOHAN. J,

shr

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