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Crl.O.P.No.9653 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.05.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.K.IYANTHIRAIYAN

Crl.O.P.No.9653 of 2023
and
Crl.M.P.No.6307 and 6308 of 2023

R.Raja Rao Parchuri

...Petitioner

Vs.

M/s.Prathyusha Power Gen Private Limited,
(A company incorporated in India under
the provisions of the Companies Act, 1956,
having their Registered Office
At Lakshmi Chambers
No.30, Anna Salai,
Little Mount
Chennai – 600 015.

Represented by its Authorised Signatory
Mr.P.C.Gopalakrishnan

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. Praying to call for the records and quash the proceedings/complaint filed in C.C.No.4220 of 2021, pending on the file of the learned Metropolitan Magistrate Court (FTC-III), Saidapet, Chennai, as the continuance of the same is abuse of process of law.

For Petitioner : Mr.M.Palanivel

For Respondent : Mr.J.Jayabalan



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ORDER

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This Criminal Original Petition is filed to call for the records and quash the proceedings/complaint filed in C.C.No.4220 of 2021, pending on the file of the learned Metropolitan Magistrate Court (FTC-III), Saidapet, Chennai, as the continuance of the same is abuse of process of law.

2. The case of the prosecution is that, the petitioner is an erstwhile promoter/shareholder of M/s.Prathyusha Power Gen Private Limited. The petitioner along with other shareholders had entered into a tripartite Memorandum of Understanding for Acquisition of Shares on 27.09.2013 to sell the shares held by him and others. On 30.12.2013, a Share Purchase Agreement was executed based on the MOU and on the same day, the petitioner had executed an Indemnity Bond towards electricity tax payable to CEIG relating to the period when the company was under his control and operation. The Petitioner being an Indemnifier, agreed that, as and when Electricity Tax Demand was received from CEIG, the same will be borne by him. The petitioner also executed an Addendum to the Share Purchase Agreement on 29.07.2015. As per the Addendum the petitioner had executed and issued an undated filled cheque bearing No.006492 by him for an amount



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of Rs.1,55,25,675/-. The respondent received a demand letter dated 18.09.2019 from the CEIG, Tamil Nadu, claiming E-Tax payable by the petitioner for the period 2009-10, while M/s.Prathyusha Power Gen Private Limited was under his control and operation. In spite of the respondent's repeated demands to the petitioner to pay his existing legal liability, as per the demand from the CEIG, the petitioner asked the respondent to present the cheque issued by him by filling the date as 11.08.2021 and after clearance on behalf of the petitioner, asked the respondent to clear the E-Tax liability payable by the petitioner. When the respondent presented the cheque for collection, the same was dishonoured for the reason "Account Blocked". The respondent sent a legal notice dated 07.09.2021 by Registered Post, for which the petitioner sent an evasive reply on 23.09.2021 and failed to make the payment, necessitating the respondent to file a complaint under Section 200 of Cr.P.C for the alleged offence under Sections 138, 141 r/w 142 of Negotiable Instruments Act in C.C.No.4220 of 2021, pending on the file of the learned Metropolitan Magistrate Court (FTC-III), Saidapet, Chennai.

3. The learned counsel for the respondent submitted that, already the



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trial is commenced and PW1 was examined on the side of the respondent.

In fact, matter is posted for arguments. Therefore, he prayed for dismissal of the petition.

4. Considered the submissions and perused the records.

5. On perusal of the records produced, this Court is of the view that, at this stage, C.C.No.4220 of 2021 cannot be quashed. That apart, there are specific averments present in this case to attract offences under Sections 138 of Negotiable Instruments Act against the petitioner.

6. Accordingly, this Criminal Original Petition is dismissed, with a direction to the Metropolitan Magistrate Court (FTC-III), Saidapet, Chennai to complete the trial within a period three months from the date of receipt of a copy of this Order.

7. The Personal appearance of the petitioner in C.C.No.4220 of 2021 on the file of the Metropolitan Magistrate Court (FTC-III), Saidapet, Chennai is dispensed with. Consequently, Crl.M.P.No.6308 of 2023 is allowed.



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Crl.M.P.No.6307 of 2023 is closed.

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Internet :Yes

Index :Yes/No

To:

The Metropolitan Magistrate Court (FTC-III),
Saidapet, Chennai



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G.K.IIANTHIRAIYAN, J.
gd

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