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Crl.O.P.No.8964 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.8964 of 2023
and
Crl.M.P.Nos.5744 and 5745 of 2023

1.M/s.Deepam Engineering Company,
Old No.560, New No.268,
M.T.H.Road,
Ambattur Industrial Estate,
Near Telephone Exchange,
Chennai – 600 098.

2.P.Madasamy

...Petitioners

Vs.

The Tamil Nadu Industrial Investment Corporation LTD,
(A Government of Tamil Nadu Undertaking)
Chennai Branch, (Ground Floor), No.692,
Anna Salai, Nandanam,
Chennai – 600 035.
represented by its Administrative Officer)

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in C.C.No.1777 of 2018 pending on the file of the III Fast Track Metropolitan Magistrate at Saidapet, Chennai and quash the same as against the petitioners.



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For Petitioners : Mr.M.Soundar Vijay Arul Ram

ORDER

This Criminal Original Petition is filed to call for the records in C.C.No.1777 of 2018 pending on the file of the III Fast Track Metropolitan Magistrate at Saidapet, Chennai and quash the same as against the petitioners.

2. It is the submission of the learned counsel for the petitioners that, petitioners are the suppliers of Industrial materials to TANGEDCO. Petitioners availed a loan from the respondent , by entering into an Agreement. The Agreement between the petitioners and respondent is that, TANGEDCO would pay the amount on behalf of the petitioners. Only if, TANGEDCO fails to pay the amount, then liability of the petitioners come into operation.

3. At the time of availing loan, respondent obtained cheques from the petitioners as security. When TANGEDCO failed to pay the amount, the respondent, using the cheques given as security, initiated proceedings, which is illegal, necessitating filing of this petition.



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4. Considered the submissions and perused the records.

5. The allegations made in the complaint shows that, petitioners obtained loan of Rs.1 crore from the respondent on 19.01.2016 and towards the part discharge of the loan, three cheques bearing No.220254, dated 10.11.2017 for Rs.9,75,000/-, No.220255, dated 13.11.2017 for Rs.9,25,000/- and No.220256, dated 14.11.2017, for Rs.9,00,784/-, totally for a sum of Rs.28,00,784/- were issued. When these cheques were presented for collection on 14.11.2017, they were returned with an endorsement “Funds Insufficient”. Thereafter, Statutory Notice was given. Despite receiving notice, petitioners had not paid the amount. Thus, the case came to be filed. The copy of the Agreement provided by the petitioners was executed between petitioners and respondent. TANGEDCO is not a party to this Agreement. Therefore, the contention of the learned counsel for the petitioners that TANGEDCO has to pay the amount is a disputed fact and needs to be proved during the course of trial. The other issue that, cheques issued as security are used by the respondent is also a disputed fact and required to be decided during the course of trial. From the complaint allegations, *prima-facie* case is



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made to prosecute the petitioners for commission of offence under Section 138 of Negotiable Instruments Act. Therefore, this Court finds that, there is no valid ground for quashing C.C.No.1777 of 2018 pending on the file of the learned III Fast Track Metropolitan Magistrate, Saidapet, Chennai.

6. Accordingly, this Criminal Original Petition is dismissed, with a direction to the learned III Fast Track Metropolitan Magistrate, Saidapet, Chennai to dispose the case, without being influenced by the observation made by this Court in this Order. Consequently, the connected Miscellaneous Petitions are closed.

25.04.2023

Internet :Yes

Index :Yes/No

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To:

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- 1.The III Fast Track Metropolitan Magistrate,
Saidapet, Chennai.
- 2.The Tamil Nadu Industrial Investment Corporation LTD,
(A Government of Tamil Nadu Undertaking)
Chennai Branch, (Ground Floor), No.692,
Anna Salai, Nandanam,
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G.CHANDRASEKHARAN, J.
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