



Crl.O.P.No.15687 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

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and

Crl.M.P.No.7792 of 2019

1.Gangotri Enterprises Ltd.,
Rep.by its Managing Director Ajit Pandey,
B-158, Sector A, Mahanagar,
Lucknow – 226 006.

2.Ajit Pandey,
Managing Director,
Gangotri Enterprises Ltd.,
B-158, Sector A, Mahanagar,
Lucknow – 226 006.

...Petitioners 1 & 2

-Vs-

Sri Ragavendra Agencies
Rep.by its proprietor,
M. Dayalan,
No.17/11, Manali New Town,
Chennai – 600 103.

... Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records in S.T.C.No.123 of 2016 pending on the file of the learned Judicial Magistrate Court – II, Ponneri and to quash the same.



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For Petitioners : Mr. R. Thirumoorthy
For Respondent : Mr. Arun Anbumani

ORDER

This Criminal Original Petition has been filed seeking to quash the proceeding of the private complaint in S.T.C.No.123 of 2016 on the file of the Judicial Magistrate Court – II, Ponneri, filed for the alleged offence under Section 138 of the Negotiable Instruments Act.

2.It is alleged in the complaint that towards discharge of the liability of the first petitioner, a cheque was issued on behalf of the first petitioner for a sum of Rs.1,60,00,000/- and that when the said cheque was presented for collection, it was dishonoured and further, the petitioner did not make payment in spite of the statutory notice.

3.The learned counsel for the petitioner submitted that the dispute between the petitioners and the respondent was settled before the National Company Law Tribunal (NCLT) at Allahabad in C.P. (IB) No.193 of 2018, wherein the respondent received a sum of Rs.50,00,000/- in full and final settlement of the money due to them by



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the petitioners. Hence, he submitted that in view of the settlement, the impugned complaint is nothing but an abuse of process of law.

4.The learned counsel for the respondent, however submitted that the settlement was done by its authorized representative without his knowledge. He had also given a complaint to the Board of Discipline, constituted under Section 21A of the Chartered Accountant Act, 1949. In the said complaint, the representative of the respondent was found guilty of misconduct and hence the settlement arrived at before the NCLT cannot be considered.

5.This Court is of the view that the question as to whether a settlement was arrived at between the parties and whether the petitioners have discharged their liability in terms of the settlement are questions which have to be adjudicated only before the trial Court. It is open to the petitioners to raise all contentions before the trial Court and the learned Judicial Magistrate may consider the same on its merits, without being influenced by any of the observations made in this order.



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6.It is submitted that there is a warrant pending as against the second petitioner herein. The second petitioner shall appear before the learned Judicial Magistrate and make an application for recall of warrant. Thereafter, since the 2nd petitioner is residing in Allahabad, his appearance before the trial Court is dispensed with, unless the learned Magistrate considers his presence necessary for the progress of the trial.

7.With the above observations, this Criminal Original Petition is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

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smv

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order



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To,
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- 1.The Judicial Magistrate – II,
Ponneri.
- 2.The Public Prosecutor,
High Court of Madras.



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SUNDER MOHAN,J.
smv

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