



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2023

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.19693 of 2021

and

Crl.MP.No.10737 of 2021

- 1.Chirag Janardhan (44/M)
(Ex-Independent Director of Manpasand
Beverages Limited)
Aged: 44 years, Male, Hindu
R/o. 86, Royal acres
Near Billabong High International School
Vadsar, Vadodara-390 010.
- 2.Dhruv Kanahiyalal Agarwal
(Ex- Non-Executive Director of Manpasand
Beverages Limited)
Aged: 46 years, Male, Hindu
R/o. A-103, Fortune Heights
Mangal Pandey Road
Sama, Nr.Navrachna School
GIPCL Circle, Vadodara-390 002.
- 3.Milind Kumar Vasantryao
(Ex-Independent Director of Manpasand
Beverages Limited)
Aged: 70 years, Male, Hindu
R/o-22-A, Amin Park
Nr.Avdhut Society
Vishvamitri, manjalpur
Vadodara, Gujarat-390 011.

... Petitioners/
Orig. Accused Nos.3,8 & 9

Vs.



1.Capricorn Foods Products India Limited
Rep.by its Power Agent
Mr.A.E.Jayagopi
S/o.Ethiraj
Old No.AH-216, New No.AH.11
2nd Street, Shanthi Colony
Anna Nagar, Chennai 600 040.

..1st Respondent/Complainant

2.M/s.Manpasand Beverages Limited
Rep.by its Director Mr.Abhishek Dhirendra Singh
No.1768 & 1774/ PATKI-1
Village-Manjusar, Savli Road
TAK Savli, Vadodara
Gujarat-391775.

3.Mr.Abhishek Dhirendra Singh
Director
M/s.Manpasand Beverages Limited
No.1768 & 1774/ PATKI-1
Village-Manjusar, Savli Road
TAK Savli, Vadodara
Gujarat-391775.

..2nd & 3rd Respondents/1st & 2nd Accused

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the records pertaining to the C.C.No.2152 of 2019, pending on the file of the Fast Track Court-IV, George Town, Chennai and consequently, quash the same.

For Petitioners : Mr.V.C.Anion Naveen Kumar
for M/s.Nathan and Associates

For Respondents
For R1 : Mr.T.Ravichandran

For R2 & R3: No Appearance

**ORDER**

This criminal original petition has been filed to quash the proceedings in C.C.No.2152 of 2019, on the file of the Fast Track Court-IV, George Town, Chennai.

2.Heard both sides and peruse the materials available on record.

3.The learned counsel for the petitioners/accused submitted that the 1st respondent lodged a complaint for the offence under Section 138 of the Negotiable Instruments Act, 1881, alleging that the accused Company and its Directors engaged in the business of manufacturing fruit juice under various branch names. During the course of the said business, the 1st respondent sold mango pulp to the accused Company, on credit basis, through invoices from the month of March 2017 to March 2019. The accused Company had a running account and made part payment and thereafter, failed to pay the balance amount. While so, the accused had issued cheques, to settle the outstanding due of Rs.4,44,15,092/-. When the cheques were presented for collection, they were returned dishonoured, for the reason payment stopped for the drawer. Subsequently, they resigned their directorship and therefore, they are not liable for this transaction. Hence, the proceedings in C.C.No.2152 of 2019, pending on the file of the Fast Track Court-IV, George Town, Chennai against them to be quashed.

4.The learned counsel appearing for the 1st respondent specifically contended that after causing notice, the 1st respondent lodged a complaint against the accused company for the offence u/s. 138 of the Negotiable Instruments Act, 1881.



5. It is seen that there are totally 10 accused, in which the petitioners were arrayed as 3rd, 8th and 9th accused, respectively and they were implicated as accused since they were directors of 1st accused company. The only ground taken by the petitioners is that they had joined as non-executive independent director on 1.5.2015, 14.8.2014 and 3.10.2014, respectively. Thereafter, they had resigned from their directorship on 26.5.2019, 29.5.2019 and 27.5.2019, respectively. After resignation, they also submitted Form No.DIR 11 to the Registrar of Companies. It was also uploaded in the official website of Ministry of Corporate Affairs. Therefore, they are not liable to be inferred, as on the date of issuance of cheque, they were not the directors of the company. On perusal of the records revealed that there are specific allegations as against all the directors of the accused company. Their business transaction with the 1st respondent was to send the mango pulp to the various branches of accused Company. Out of the said business transaction, there was a due of Rs.4,44,15,092/-. So, they issued cheques. When the 1st respondent presented them for realisation, they returned dishonoured. During the tenure of the petitioners only the business transaction had happened. Therefore, they had also active role in the business transaction with the 1st respondent herein. Though they were resigned their directorship, at the time of business transaction, they were actively participated with the 2nd respondent. After knowing the business transaction and a huge sum was due to the 1st respondent, the petitioners conveniently resigned their directorship. Therefore, it would not absolve their liability. Therefore, this Court does find any ground to quash the proceedings and the same is dismissed.



6. In the light of the above discussion, this Court does not find any grounds to quash the proceedings and accordingly, this quash petition stands dismissed. The Court below is directed to complete the trial in C.C.No.2152 of 2019, pending on the file of the Fast Track Court-IV, George Town, Chennai, within a period of six months from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed.

11.10.2023

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Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
kp

To

1. Metropolitan Magistrate
Fast Track Court-IV,
George Town, Chennai.



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G.K.ILANTHIRAIYAN, J.

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