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CrI.O.P.No.19663 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2023

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

CrI.O.P.No.19663 of 2019 and
CrI.M.P.Nos.10056 & 10058 of 2019

1.Susin Technologies Pvt.Ltd.,
Rep by its Managing Director M.Sindhuja,
having office at Door No.4/134-A, Thadagam Road,
K.N.G.Pudur, Coimbatore – 641 108.

2.M.Sindhuja

... Petitioners / Accused Nos. 1 and 2

/vs/

Mrs.J.Nithya

... Respondent / Complainant

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C. to call for the records in C.C.No.1036 of 2018 on the file of the learned Fast Track Judge Magistrate No.II, Coimbatore and quash the same.

For Petitioners : Mr.N.Subbarayalu

For Respondent : Mr.I.Abrar Md. Abdullah

ORDER



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This Criminal Original Petition has been filed to call for the records in

C.C.No.1036 of 2018 on the file of the learned Magistrate No.II, Fast Track Court, Coimbatore and quash the same.

2. Heard the learned counsel for the petitioners and the learned counsel for the respondent.

3. As per the complaint, it is stated that the first petitioner has got business transaction with the respondent and during the said course, the first petitioner had issued a cheque for Rs.4,00,000/- towards the discharge of the dues to be paid to the respondent in connection with the work executed with regard to the exterior and interior decoration of the first petitioner. When the cheque was presented for collection, it was returned as 'payment stopped by the Drawer'. After complying the mandates prescribed under the Negotiable Instruments Act, a private complaint has been given.

4. The learned counsel for the petitioners submitted that the impugned cheque itself was drawn by the Company by name Susin Itork India Private Limited; but the petitioners who are not a signatory of the impugned cheque have been implicated as parties to this proceedings and therefore, it is not



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maintainable.

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5. The learned counsel for the respondent submitted that the interior and exterior work has been undertaken by the respondent for both the Companies for which the second accused is the Managing Director and the third respondent is the Director in both the Companies.

6. It is to be taken note that on the very same ground the third accused has filed a petition to quash the proceedings in Crl.O.P.No.10410 of 2019. In the said petition, an order has been passed on 08.09.2022 by allowing the petition and quashed the proceedings as against the third accused. Apparently, the Company which has issued the impugned cheque is not a party to this proceedings. Even if the first petitioner might be a Company related to the other accused in terms of the business or any other activity, the fact remains that the drawer of the cheque is one Susin Itork India Private Limited. As per Section 141 of the Negotiable Instruments Act, the Company who had issued the cheque for discharge of any of its liability alone can be deemed to be guilty. The vicarious liability can be fixed against



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the other accused also provided they are directly related to the Company which has issued the cheque. But for the case in hand, the cheque was not issued by the first petitioner and so far as the impugned cheque is concerned, the first petitioner or in that context the second petitioner are not liable to face the criminal proceedings of this kind. Hence I find force in the arguments of the learned counsel for the petitioners and the said ground can be taken as a vital point to quash the proceedings as against the petitioners.

7. In the result, this Criminal Original Petition is allowed and the proceedings in C.C.No.1036 of 2018 on the file of the learned Magistrate No.II, Fast Track Court, Coimbatore is quashed in so far as the petitioners are concerned. Consequently, connected miscellaneous petitions are closed.

02.01.2023

Index: Yes/No

Internet: Yes/No

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To

1.The Magistrate No.II,
Fast Track Court, Coimbatore.

2.The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA ,J.

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