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Crl.O.P.No.20077 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2023

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THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.20077 of 2019

and

Crl.M.P.No.10285 of 2019

C.Jeyaraj

... Petitioner

Vs.

The Tamil Nadu Industrial Investment
Corporation Limited,
(A Government of Tamil Nadu undertaking),
Chennai Branch,
Ground Floor No.692 Anna Salai Nandanam
Chennai-35.
(Rep. by its Loan Administrative Officer,
Shri.S.Suriyamurthy)
(Cause title as found in the Complaint)

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking To call for records in C.C.No.2028 of 2018 on the file of FTC III Metropolitan Magistrate, Saidapet, Chennai and quash the proceedings as against the Petitioner herein for an offence under Sec.138 r/w 141 Negotiable Instruments Act.

For Petitioners : Mr.R.Ashwin



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For Respondents : Mr.V.Saravanan for V.Devendhiran for
sole respondent

ORDER

The petition is to quash a private complaint filed under Section 138 read with Section 141 of the Negotiable Instruments Act.

2. It is alleged in the complaint that the 1st accused company had issued a cheque for Rs.9,26,29,000/- in favour of the complainant; that when the said cheque was presented for clearance, it was returned with an endorsement 'Funds Insufficient'; that in spite of statutory notice, the 1st accused and the other accused did not make payment.

3. The learned counsel for the petitioner would submit that the petitioner is arrayed as A.4 and shown as a Director of the 1st accused company. The cheque in question was issued on 05.01.2018. However, the petitioner had resigned from the company on 26.05.2016. Form-32 produced by the learned counsel for the petitioner confirms the said fact.

4. The learned counsel for the respondent submits that the question



whether the petitioner has resigned from the company prior to the issuance of cheque has to be adjudicated only during trial and prayed for the dismissal of the quash petition.

5. This Court finds that the petitioner has produced an incontrovertible document in the form of Form-32 wherein, it is stated that the petitioner had resigned from the company on 26.05.2016. This document cannot be justifiably refuted by the complainant. In view of the fact that the petitioner had resigned from the company on 26.05.2016, much before the cheque dated 05.01.2018 was issued by the 1st accused company, this Court finds that the petitioner cannot be said to be the person in-charge and responsible to the 1st accused/ company for the conduct of its business. Hence the impugned complaint as against the petitioner alone is liable to be quashed and hence, quashed.

6. It is also submitted that at the time of filing, the case was pending on the file of the Fast Track Court III, Metropolitan Magistrate, Saidapet in C.C.No.2028 of 2018 and now the case has been transferred to XI Judge, Court of Small Causes, Chennai in STC No.666 of 2021. Hence, the



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Registry is directed to mark a copy of the order to the XI Judge, Court of Small Causes, Chennai. The learned Judge may proceed with the trial as against the other accused in accordance with law.

7. Accordingly, the Criminal Original Petition stands allowed. Consequently, the connected Miscellaneous Petition is closed.

06.04.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
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To

- 1.The FTC, III Metropolitan Magistrate,
Saidapet Chennai.
2. The XI Judge, Court of Small Causes, Chennai.

SUNDER MOHAN. J,



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