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Crl.O.P.Nos.16971 & 16981 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2023

CORAM :

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P.Nos.16971 & 16981 of 2023

and

Crl.M.P.Nos.10905, 10907, 10912 & 10915 of 2023

Vijaya Arun
Director
M/s.Sargam Metals Pvt. Ltd.,
“Mangalam Square”, L13,
DR VSI Estate, Phase II, Thiruvananthapuram,
Chennai – 600 041.

Administrative Office at
Block 1, Unit 35, 3rd Floor,
SIDCO Electronic Complex,
Thiru Vi Ka Industrial Estate,
Guindy, Chennai – 600 032

Factory at
Plot No.7A, Sipcot Industrial Park,
Chellaperumbulimedu Village,
Cheyyar – 631 701.

... Petitioner
in both petitions

Vs.

M/s.Indian Aluminium Trading Company,
Represented by its Power Agent Pullaiah Ramaiah
No.63, Srinidhi, Thattankulam Road,
Madhavaram,
Chennai – 600 060.

... Respondent
in Crl.O.P.No.16971 of 2023



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M/s.Ambal Agencies
Represented by its Power Agent Pullaiah Ramaiah
No.63, Srinidhi, Thattankullam Road,
Madhavaram,
Chennai – 600 060.

... Respondent
in Crl.O.P.No.16981 of 2023

Prayer: Criminal Original Petitions in Crl.O.P.Nos.16971 and 16981 of 2023 filed under Section 482 Cr.P.C. to call for the records in S.T.C.Nos.3588 and 3587 of 2021, respectively, dated 11.10.2021 pending on the file of the XXVI Metropolitan Magistrate, Egmore, Chennai, and quash the same against the petitioner/3rd accused.

For Petitioner : Mr.Nithiyesh Nataraj
for Mr.Akash Srinanda
in both petitions

For Respondent : Mr.Paramasivadoss
for M/s.R.Meenakshi Devi
in both petitions

COMMON ORDER

These Criminal Original Petitions have been filed to quash the proceedings in S.T.C.Nos.3588 and 3587 of 2021 pending on the file of the XXVI Metropolitan Magistrate, Egmore, Chennai.



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2.The respondent in each case has initiated proceedings under Section 138 of the Negotiable Instruments Act against M/s.Sargam Metals Pvt. Ltd. and its Directors. The petitioner has been arrayed as A3 in both the complaints.

3.The main ground that was raised by the learned counsel for the petitioner is that the petitioner (A3) is not involved in the day-to-day affairs of the Company (A1) and there are no averments in the complaint against the petitioner satisfying the requirements under Section 141 of the Negotiable Instruments Act. The learned counsel also brought to the notice of this Court the earlier order passed by this Court in Crl.O.P.Nos.1702 of 2021 and 2249 of 2021, wherein, the complaint filed by the very same respondent against the petitioner on similar allegations, was quashed. Therefore, the learned counsel submitted that the reasons given in the said order will equally apply to the present case also.

4.The learned counsel for the respondent submitted that the cheque was issued towards the discharge of liability by virtue of a Memorandum of Understanding and in the Memorandum of Understanding, the petitioner is



one of the signatory. In view of the same, the learned counsel submitted that the petitioner is very much involved in the day-to-day affairs of the Company.

5.This Court has carefully considered the submissions made on either side and the materials available on record.

6.This Court had an occasion to deal with a private complaint filed under Section 138 of the Negotiable Instruments Act as between the very same parties containing the very same averments and dealing with very same grounds that were raised in these petitions and this Court was pleased to quash those complaints insofar as the petitioner is concerned. This Court found that there was absolutely no averment in the complaint to show as to how and in what manner the petitioner is in-charge or responsible for running the day-to-day affairs of the Company. This Court also specifically dealt with the issue raised by the learned counsel for the respondent to the effect that the petitioner was also one of the signatory to the Memorandum of Understanding. After considering the same, this Court found that the averments made in the complaint did not satisfy the requirements under Section 141 of the Negotiable Instruments Act.



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WEB COPY 7.The very same reasoning can be applied to the present case also and on carefully going through the complaint and the materials available on record, this Court finds that there is nothing to show that the petitioner is in direct control of the affairs of the Company.

8.In the light of the above discussion, the proceedings in S.T.C.Nos.3588 and 3587 of 2021 pending on the file of the XXVI Metropolitan Magistrate, Egmore, Chennai, are hereby quashed insofar as the petitioner (A3) is concerned and both the Criminal Original Petitions are allowed. There shall be a direction to the learned XXVI Metropolitan Magistrate, Egmore, Chennai, to dispose of S.T.C.Nos.3588 and 3587 of 2021, within a period of three months from the date of receipt of a copy of this order, as against the other accused persons. Consequently, connected miscellaneous petitions are closed.

28.08.2023

mkn

To

The XXVI Metropolitan Magistrate,
Egmore, Chennai.



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N. ANAND VENKATESH, J.
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