



IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Dated : 07.09.2023

Coram:

The Hon'ble Mr.Justice V.SIVAGNANAM

**Crl.O.P.Nos.24482 & 24485 of 2021
and Crl.M.P.Nos.13481 to 13484 of 2021**

1.M/s.Maruthi Minerals Private Limited,
Rep. by its Managing Director and authorized signatory,
#24/2, Flat No.403, Shri Rama Teja Towers,
Manikya Nagar Kanuru,
Ashok Nagar, Vijayawada,
Andhra Pradesh – 520 007.

...1st petitioner in Crl.O.P.No.24482 of 2021

2.Mr.Maruthi,
Director of M/s.Maruthi Minerals Private Limited,
#24/2, Flat No.403, Shri Rama Teja Towers,
Manikya Nagar Kanuru,
Ashok Nagar, Vijayawada,
Andhra Pradesh – 520 007.

...2nd petitioner in Crl.O.P.No.24482 of
2021

3.Mrs.Monisha,
Director of M/s.Maruthi Minerals Private Limited,
#24/2, Flat No.403, Shri Rama Teja Towers,
Manikya Nagar Kanuru,
Ashok Nagar, Vijayawada,
Andhra Pradesh – 520 007.

...1st petitioner in Crl.O.P.No.24485 of 2021



WEB COPY

4.Mr.Subbiah Choudary,
Director of M/s.Maruthi Minerals Private Limited,
#24/2, Flat No.403, Shri Rama Teja Towers,
Manikya Nagar Kanuru,
Ashok Nagar, Vijayawada,
Andhra Pradesh – 520 007.

...2nd petitioner in Crl.O.P.No.24485 of
2021

Versus

Krishnamurthy S/o. G.Vijayagopalu
Rep. by his Power Agent,
Mr.Simson S/o. Santhanam,
No.252, Kilpauk Garden Road,
Chennai – 600 010.

...Respondent in both Crl.O.Ps

Common Prayer:

These Criminal Original Petitions are filed under Section 482 of Cr.P.C praying to call for the records relating to C.C.No.9120 of 2019 pending trial on the file of the learned Metropolitan Magistrate, Fast Track Court – 1, Allikulam Complex, Chennai and quash the entire proceedings against the petitioners.

For Petitioners
in both Crl.O.Ps : Mr.Tvl.R.C.Paul Kanagaraj

For Respondent
in both Crl.O.Ps : M/s.Nathan & Associates



WEB COPY

COMMON ORDER

These criminal original petitions have been filed by the petitioners seeking to quash the proceedings in C.C.No.9120 of 2019 on the file of the learned Metropolitan Magistrate, Fast Track Court – 1, Allikulam Complex, Chennai.

2. The brief facts of the case are as follows:

The 1st petitioner in CrI.O.P.No.24482 of 2021 is a company engaged in the manufacturing and export of processed food products and Agro Commodities business and the 2nd petitioner in CrI.O.P.No.24482 of 2021 is the Authorized Signatory/one of the Directors of said company. The petitioners in CrI.O.P.No.24485 of 2021 are also one of the Directors of 1st petitioner in CrI.O.P.No.24482 of 2021. The respondent was also appointed as one of the Directors of the 1st petitioner in CrI.O.P.No.24482 of 2021 and he had invested Rs.1,50,00,000/- in the 1st petitioner in CrI.O.P.No.24482 of 2021 since 2015. While so, the 1st petitioner in CrI.O.P.No.24482 of 2021 had issued the following three cheques to the respondent:



WEB COPY

(i) Cheque No.045622 dated 27.08.2017 for a sum of Rs.26,08,108/-

(ii) Cheque No.046521 dated 27.09.2017 for a sum of Rs.26,08,108/-

(iii) Cheque No.045620 dated 27.08.2017 for a sum of Rs.26,08,108/-

The above Cheques were drawn on Axis Bank, Vijayawada Branch. On 27.11.2017, when the respondent presented these Cheques for encashment at Axis Bank, Purasaiwalkam Branch, the same were dishonored for the reason, "Insufficient Funds". Hence, the respondent vide Legal Notice dated 27.12.2017, calling upon the petitioners to pay the cheque amount, within a period of 15 days from the date of notice. Even after the issuance of said Legal Notice, the petitioners did not come forward to pay the cheque amount. Therefore, the respondent lodged a complaint against the petitioners for the offence under Sections 138 & 142 of the Negotiable Instruments Act (hereinafter referred to as 'NI Act') and the said complaint is pending in C.C.No.9120 of 2019 on the file of the learned Metropolitan Magistrate, Fast Track Court – 1, Allikulam Complex, Chennai. Hence, the petitioners have filed the present petitions.

3. The learned counsel for the petitioners submitted that the



WEB COPY

petitioners are A1, A2, A3 & A4 in C.C.No.9120 of 2019 pending on the file of the learned Metropolitan Magistrate, Fast Track Court – 1, Allikulam Complex, Chennai and the respondent is the complainant. The petitioners in CrI.O.P.No.24485 of 2021/A3 & A4 are only Directors of the 1st petitioner in CrI.O.P.No.24482 of 2021/A1 and they are not involving in the day-to-day activities of the 1st petitioner in CrI.O.P.No.24482 of 2021 and also, they are not signatories to the Cheques issued by the 1st petitioner in CrI.O.P.No.24482 of 2021. He further submitted that the respondent/complainant is also one of the Directors of 1st petitioner in CrI.O.P.No.24482 of 2021/A1, however, suppressing the same, the respondent/complainant has filed a false complaint against the petitioners. Therefore, the learned counsel prayed this Court to quash the proceedings in C.C.No.9120 of 2019 on the file of the learned Metropolitan Magistrate, Fast Track Court – 1, Allikulam Complex, Chennai.

4. The learned counsel appearing for the respondent has not disputed the submission made by the learned counsel for petitioners that the respondent/complainant is one of the Directors of 1st petitioner in



Crl.O.P.No.24482 of 2021/A1 which issued the subject Cheques.

WEB COPY

5. Heard the learned counsel for the petitioners and the learned counsel appearing for the respondent.

6. From a perusal of the materials available on record, it is seen that the 1st petitioner in Crl.O.P.No.24482 of 2021 is a company and 2nd petitioner in Crl.O.P.No.24482 of 2021 & the petitioners in Crl.O.P.No.24485 of 2021 are one of the Directors of 1st petitioner in Crl.O.P.No.24482 of 2021. The respondent is also one of the Directors of the 1st petitioner in Crl.O.P.No.24482 of 2021 and he had invested Rs.1,50,00,000/- in the 1st petitioner in Crl.O.P.No.24482 of 2021. While so, the 1st petitioner in Crl.O.P.No.24482 of 2021 had issued three cheques to the respondent. When the respondent presented the said cheques for encashment, the same were dishonored for the reason, “Insufficient Funds”. Despite the issuance of legal notice by the respondent, the petitioners did not pay the cheque amount. Hence, the respondent had lodged a complaint against the petitioners for the offence under Sections 138 & 142 of the NI



Act and the same is pending in C.C.No.9120 of 2019 on the file of the learned Metropolitan Magistrate, Fast Track Court – 1, Allikulam Complex, Chennai.

7. As far as this case is concerned, the respondent/complainant is also one of the Directors of the 1st petitioner in CrI.O.P.No.24482 of 2021 and the same is not disputed by the learned counsel appearing for the respondent. Being one of the Directors of the petitioner company, the respondent/complainant cannot prosecute the case against the petitioner company and its other Directors, for dishonoring the cheques. Further, in the present case, the ingredients required for the offence punishable under Sections 138 & 142 of NI Act are not made out against the petitioners.

8. Considering the above facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, Court is inclined to allow these petitions and quash the proceedings in C.C.No.9120 of 2019 on the file of the learned Metropolitan Magistrate, Fast Track Court-1, Allikulam Complex, Chennai.



WEB COPY

9. Accordingly, this criminal original petitions are allowed and the proceedings in C.C.No.9120 of 2019 on the file of the learned Metropolitan Magistrate, Fast Track Court – 1, Allikulam Complex, Chennai is hereby quashed. Consequently, connected miscellaneous petitions are closed.

07.09.2023

mrr

Index: Yes/No

Speaking Order (or) Non-Speaking Order

To

1.The Metropolitan Magistrate,
Fast Track Court – 1, Allikulam Complex,
Chennai.

2.The Public Prosecutor,
High Court, Madras.



WEB COPY



V.SIVAGNANAM, J.

mrr

Crl.O.P.Nos.24482 & 24485 of 2021

07.09.2023