



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.11.2023

CORAM :

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.22544 of 2023

and

Crl.M.P. Nos.15734 & 15735 of 2023

1.Sonia Sharma

2.T.Bharath

... Petitioners

-VS-

M/s. Kalai Engineering Pvt. Ltd

Rep by its Director

C. Dharmalingam

...Respondent

PRAYER : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records in STC.No. 2629 of 2023 pending on the file of the FTC-II Metropolitan Magistrate Level Allikulam at Chennai and to Quash the same in respect of the petitioners herein.

For Petitioners

: Mr.K.M.Balaji

For Respondent

:Mr.B. Deepak Kannna for

R & P Patners

ORDER

The petition to quash the proceeding initiated under Section 138 of the Negotiable Instruments Act, 1881 (NI Act), which has been taken on file by the FTC II, Metropolitan Magistrate at Allikulam, Chennai in STC. No.2629 of 2023.



2. The contention of these two petitioners is that they are non performing Directors of the first accused Company by name M/s.Jara Infratech Limited and same been though known to the Complainant herein, just to harass them they are also impleaded as Accused 3 and 4 in the said complaint.

3. The respondent/complainant took notice of the quash petition and has filed a detailed counter along with typedset of papers. The complaint, as such, does not say any specific overtact against these two petitioners, except stating that 3rd and 4th accused are the Directors, who are in charge of the business and day to day affairs of the first accused Company. Except following the expressions found in the statute, there is no other averments in the complaint to indicate that these two petitioners were really incharge of the day to day affairs of the Company and had knowledge about the issuance of the cheque.

4. The earlier communication between the parties regarding the dispute of investing in the first accused Company by the respondent/complainant and return of the money invested, the first accused Company, has sent reply notice as early as October, 2017, wherein, he has stated that the complainant was one of the Director holding 21% of shares in his personal name got relieved and the petitioners herein who are 3rd and 4th accused were brought him as non performing Directors.



5. In spite of this facts put to the knowledge of the complainant much prior to the initiations of the private Company, the complaint is filed even against these two non performing Directors of the first accused Company, without spelling, how now they are in administration of the day to day affairs of the Company. Since, the complaint does not satisfy the requirement to prosecute the petitioners herein vicariously issued the cheque in the name of the first accused drawn by the second accused. Hence, the complaint against them is liable to be quashed.

6. Accordingly, this petition to quash is allowed, the trial Court shall proceed against A1 and A2 in accordance with law. Consequently, connected Miscellaneous Petitions are closed.

24.11.2023

Internet : Yes/No
Index : Yes/No
rkp

To

The FTC-II Metropolitan Magistrate Level
Allikulam at Chennai



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Dr.G.JAYACHANDRAN,J.

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