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Crl.O.P.No.31121 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2023

CORAM:

THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

Crl.O.P.No.31121 of 2019

and

Crl.M.P.Nos.16920 & 16921 of 2019

M.G.Suresh

...Petitioner/2nd Accused

-Vs-

The India Cements Limited,
Represented by its authorized person N.G.Jayakumar,
Registered office at No.827, Dhun Building,
Mount Road, Chennai – 600 002.

Corporate Office at Coromandel Towers,
93, Santhome High Road, Karpagam Avenue,
Raja Annamalai Puram, Chennai – 600 028.
Respondent

...

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to the proceedings in C.C.No.6949 of 2019 on the file of the Fast Track Court – I, Egmore, Chennai and to quash the same.



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For Petitioner : Ms.Premalatha

For Respondent : No appearance

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.6949 of 2019 on the file of the Metropolitan Magistrate, Fast Track Court – I, Egmore, Chennai, filed for the offence under Section 138 read with Section 141 of the Negotiable Instruments Act.

2.It is alleged in the complaint that the petitioner / A2 in discharge of his liability had issued a cheque for a sum of Rs.4,04,694/- in favour of the respondent / complainant and when the said cheque was presented for collection, it was dishonoured for the reason 'insufficient fund'. Hence the complaint.

3.The learned counsel for the petitioner submits that the impugned complaint showing both the proprietor and the proprietary concern as accused is not sustainable in law. The proprietary concern is not a person. The complainant ought to have made only the proprietor as an accused.

4.This Court finds that there is force in the submissions made by



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the learned counsel for the petitioner. The proprietary concern is not a legal person and hence it cannot be shown as an accused. The 2nd accused / petitioner M.G.Suresh can alone be prosecuted as proprietor of M/s.Aravinth Agencies. Hence, the name of M/s.Aravinth Agencies, shall be deleted from the array of accused in C.C.No.6949 of 2019. The trial Court shall proceed with the petitioner / A2 in accordance with law, without being influenced by any of the observations made in this order.

5.With the above observations, this Criminal Original Petition is partly allowed. Consequently, connected Criminal Miscellaneous Petitions are closed.

05.04.2023

smv

Index : Yes/No
Speaking order: Yes/No
Neutral citation : Yes/No

SUNDER MOHAN,J.

smv



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To,
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The Metropolitan Magistrate,
Fast Track Court – I,
Egmore, Chennai.

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and
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