



Crl.O.P.No.30699 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 15.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.30699 of 2019

and

Crl.M.P.No.16670 of 2019

M/s.Sree Gokulam Chit Fund (P) Limited,
(M/s.Sree Gokulam Chit and Finance Company (P) Limited)
Represented by its Assistant Legal Manager,
V.Mukundan
Son of Velukutty Nair,
No.49, Arcot Road, Kodambakkam,
Chennai-600 024.

... Petitioner

Vs.

1.M/s.Gem Sanitary
Represented by its Partner,
Mr.R.R.Jayakumar
No.36, T.K.Street, Coimbatore.

2.R.R. Jayakumar,
Partner:M/s.Gem Sanitary,
Son of Ramasamy,
No.36, T.K.Street, Coimbatore.

... Respondents



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PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the order passed in C.M.P.No.74 of 2019 in C.C.No.6574 of 2007 dated 6th May 2019, by the Hon'ble Metropolitan Magistrate (Fast Track III) Saidapet Chennai-600 015.

For Petitioner : Mr.P.Rakeshkumar
for Mr.L.Rajasekar

For Respondents : No Appearance

ORDER

This petition has been filed by the complainant in C.C.No.6574 of 2007. Aggrieved by the dismissal of his petition filed for amending the cause title in the complaint filed by him.

2.The petitioner had filed a compliant under Section 138 of N.I.Act against the respondents herein alleging that they had issued a cheque for Rs.7,50,254/-, which was dishonoured. However, in the said complaint, the name of the complainant was inadvertently shown as



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“M/s.Sree Gokulam Chit Fund (P) Ltd”, whereas the cheque was actually issued in the name of “M/s.Sree Gokulam Chit and Finance Co (P) Ltd”. Hence, the petitioner filed a petition to amend the cause title. The said petition was taken up by the learned Metropolitan Magistrate (F.T.C-III), Saidapet, Chennai and the same was dismissed on the ground that it would change cause of action of the case, by order dated 06.05.2019.

3.The petitioner has filed this petition praying for setting aside the said order and permitting them to amend the cause title of the complaint.

4.The learned counsel for the petitioner would submit that the prayer of the petitioner would not change the cause of action, since the cheque, which is the subject matter of the complaint clearly shows that it was issued in the name of “M/s.Sree Gokulam Chit and Finance Co



(P) Ltd”. They had inadvertently shown the complainant's name as

“M/s.Sree Gokulam Chit Fund (P) Ltd” in the complaint. If the amendment is not allowed, their complaint would be rejected on this ground. Learned counsel for the petitioner would further submit that the respondents are aware of the proceedings, since they are appearing before the trial Court regularly.

5. Notice sent to the respondents has been returned with an endorsement “left”. None has entered appearance on behalf of them.

6. This Court finds that the prayer of the petitioner for amendment would not change the cause of action of the case. It appears to be a genuine mistake committed inadvertently while filing the complaint. The cheque in question clearly shows that the cheque was issued in the name of “M/s.Sree Gokulam Chit and Finance Co (P) Ltd”. No prejudice would be caused to the respondents, if the name of



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the complainant is amended in the cause title. Hence, the order of the learned Metropolitan Magistrate, Saidapet, Chennai passed in C.M.P.No.74 of 2018 in C.C.No.6574 of 2007 dated 06.05.2019 is set aside and accordingly, this Criminal Original Petition is allowed. The petitioner is permitted to amend the cause title and show the name of the complainant as “M/s.Sree Gokulam Chit and Finance Co (P) Ltd”. Consequently, connected Miscellaneous Petition is closed.

15.03.2023

Internet:Yes

Index:Yes/No

srn

To

1. The Metropolitan Magistrate
(Fast Track III) Saidapet, Chennai-600 015.
2. The Public Prosecutor,
High Court of Madras.



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SUNDER MOHAN, J.,

srn

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