



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.33947 of 2019

And

Crl.M.P.Nos. 18739 & 18740 of 2019

1. G.Kavitha
2. S.Jaya
3. G.Karpagam ... Petitioners /Accused 3 to 5

Vs

M/s. Vel Spinning Mills
Rep. by its Managing Partner
K.Saravanan
s/o. Kuppusamy
Rep. by his Power of Attorney Holder, namely,
ES Vijayan (63), S/o. Subbraya Gounder,
Manager, M/s. Vel Spinning Mills
SF No. 273/1, Sengalipalayam, NN Patti Post,
Vellaikovil 638 111, Kangayam Taluk,
Thiruppur District. ... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in STC No. 285 of 2019 on the file of the Judicial Magistrate Court, Kangakeyam and quash the same.

For Petitioners : Mr. B.Manoharan



For Respondent : Mr.K.Suresh

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ORDER

This Petition is to quash a private complaint under Section 138 of the Negotiable Instrument Act.

2. It is alleged in the complaint that the first accused firm had issued a cheque for Rs.7,93,800/- towards discharge of their liability to the complainant. The said cheque was presented for collection and the same was returned for the reason 'insufficient funds'. It is further alleged that in respect of statutory notice, the firm did not make payment and the petitioners are partners in the said firm.

3. The learned counsel for the petitioner would submit that the impugned complaint is barred by limitation and that the petitioners had earlier given a complaint stating that the blank cheques were taken by one Nandakumar and the said cheques have been misused by the complainant. He had also issued a public notice in local newspaper. Hence, submitted that the impugned complaint has to be quashed.



4. The learned counsel for the complainant would submit that the impugned complaint is not barred by limitation as the notice under Section 138 of the Negotiable Instrument Act was received by the petitioners on 22.04.2019. The cause of action would arise only on the expiry of the 15 days from the date of receipt of notice which falls in the first week of May 2019. The complaint was filed on 31.05.2019 which is within 30 days from the date on which the cause of action had arisen and hence, it is not barred by limitation.

5. This Court finds that the complaint has been filed on time. The learned counsel for the respondent is right in saying that the cause of action for the complaint arose only on the expiry of 15 days from the date of receipt of a notice. Hence, the complaint dated 31.05.2019 cannot be said to be barred by limitation.

6. As regards the submissions that the cheques were misused by the complainant, it is a factual dispute which has to be adjudicated only in the trial. It is open to the petitioners to raise all their contentions before the trial Court. This Court is not inclined to entertain the quash petition. However,



since the petitioners are ladies, their appearance before the trial Court is dispensed with unless the trial Court deems their presence necessary for the progress of the trial Court.

7. The learned Magistrate is also directed to conduct the trial expeditiously and in any event to conclude the trial within a period of 6 months from the date of receipt of a copy of this order.

8. For all the above reasons, this Criminal Original Petition is dismissed. Consequently, CrI.M.P.No. 18739 of 2019 is closed and CrI.M.P.No. 18740 of 2019 is allowed.

21.03.2023

vsg

($\frac{1}{2}$)

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

Judicial Magistrate Court, Kangakeyam.



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SUNDER MOHAN. J.

vsg

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**21.03.2023
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