



Crl.O.P.No.33800 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2023

CORAM:

THE HON'BLE MR.JUSTICE **SUNDER MOHAN**

Crl.O.P.No.33800 of 2019 and
Crl.M.P.Nos.18622 & 18623 of 2019

1. Ananthan Lokapriya, Daughter of Ananthan
Director of M/s.Orange Aqua Poly Products Private
Limited
2. Priyadarshini Ananthan
Daughter of Ananthan
Director of M/s.Orange Aqua Poly Products Private
Limited
3. Geetha Ananthan
Wife of Ananthan
Director of M/s.Orange Aqua Poly Products Private
Limited
4. Vasan Ramanujam
Son of Ramanujam
Director of M/s.Orange Aqua Poly Products Private
Limited
Petitioners 1 to 4 at No.37/9, Ground Floor,
Suresh Nagar Main Road,
Valasaravakkam,
Chennai-600 087.

... Petitioners

Vs.



Crl.O.P.No.33800 of 2019

E.Velu, S/o.Eganathan
Nos.91 & 92, Gangai Amman Koil Street,
Vadapalani, Chennai-600 026
Re. by its Power Agent,
Mr.R.Bhuvaraghavan,
S/o.M.Rajamanickam,
No.2/4, Padmavathy Nagar 3rd Street,
Porur, Chennai-600 116.

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to
a) dispense with the personal appearance of the petitioners in C.C.No.4042 of
2019 pending trial on the file of Fast Track III Metropolitan Magistrate,
Saidapet, at Chennai, pending disposal of the Criminal Original Petition and
thus render justice; (b) to stay of all further proceedings in C.C.No.4042 of
2019 pending trial on the file of Fast Track III Metropolitan Magistrate,
Saidapet at Chennai, pending disposal of the Criminal Original Petition and ©
to call for the records pertaining to the case in C.C.No.4042 of 2019 pending
trial on the file of Fast Track III Metropolitan Magistrate, Saidapet at Chennai,
quash the same.

For Petitioners : Mr.B.Kumarasamy for
Mr.P.Kalimuthu

For Respondent : No appearance (Notice served)

ORDER

This petition is filed to quash the impugned complaint filed under
Section 200 of the Cr.P.C. for the offence under Section 138 r/w.141 of
Negotiable Instruments Act 66 of 1988 .



2. It is alleged in the complaint that A1 company had issued a cheque for Rs.3 crores in favour of the complainant herein towards discharge of the liability of the first accused company. When the said cheque was presented for collection, the same was dishonoured for the reason “payment stopped by the drawer”. In spite of issuance of statutory notice, the first accused company and its Directors did not make payment and hence, the impugned complaint.

3.The petitioners are A3 to A6 in the said complaint. Learned counsel for the petitioners would submit that all the petitioners are relatives and they were shown as Directors in the said company; that there are no allegations in the impugned complaint to invoke Section 141 of the Negotiable Instruments Act against them; and that admittedly, the first accused company issued the cheque signed by the second accused who is the Managing Director and authorized signatory. The learned counsel therefore prayed for quashing of the complaint against the petitioners/A3 to A6.

4. Notice was sent and received by the respondent. His name is also printed in the cause list. However, none has entered appearance for the respondent.



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5. This Court, on reading of the impugned complaint, finds that in the preamble portion of the complaint, the petitioners are shown as Directors. However, there is no whisper in the entire complaint as to how they are liable vicariously in order to invoke Section 141 of the Negotiable Instrument Act. As rightly contended by the learned counsel for the petitioners the allegation that they are in charge and responsible to the company for the conduct of the business is also not made in the impugned complaint. The Hon'ble Supreme Court and this Court have held that though the exact words of the provision need not be reproduced in the complaint, there must be an averment to suggest that the petitioners were in charge and responsible to the company for the conduct of the business to invoke Section 141 of the Negotiable Instruments Act. Hence, the complaint against the petitioners cannot be maintained. Therefore, the complaint as against the petitioners alone is quashed.

6. The learned Magistrate is directed to expedite the trial in respect of the other accused and in any event conclude it within a period of six months from the date of receipt of a copy of this order.



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7. With the above observations, this Criminal Original petition is allowed. Consequently, the connected miscellaneous petitions are closed.

17.03.2023

Index: Yes/No

Speaking / Non Speaking Order

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To

1. The Fast Track III Metropolitan Magistrate,
Saidapet at Chennai
2. The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J

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