



Crl.O.P.(MD) No.15384 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 17.10.2023

CORAM:

THE HONOURABLE MR. JUSTICE K.K.RAMAKRISHNAN

Crl.O.P(MD). No.15384 of 2020

and

Crl.M.P(MD). Nos.7474 and 7475 of 2020

D.Kishore Kanna

... Petitioner/Accused No.4

Vs.

M/s.Redington (India) Limited,
Represented by A.Barani Yadav,
Legal Executive,
C-48B, First Floor,
11th B Cross Road,
Thillai Nagar,
Tiruchirappalli-620 018.

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for all the relevant records pertaining to the petitioner/accused No.4 in S.T.C.No.838 of 2018 on the file of the learned Judicial Magistrate Court No.IV, Tiruchirappalli and to quash the same against the petitioner/4th accused.

For Petitioner : Mr.J.Sanjoy Vignesh

For Respondent : Mr.S.Muthukrishnan



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ORDER

This petition has been filed to quash the proceedings in S.T.C.No. 838 of 2018 on the file of the learned Judicial Magistrate Court No.IV, Tiruchirappalli, against the petitioner/4th accused.

The petitioner is said to have committed offence under Section 138 of Negotiable Instruments Act. The respondent/complainant is a company named M/s.Redington (India) Limited, which is engaged in the business of distribution of IT and NON IT products among various other allied products and products of various multinational companies. The petitioner is the fourth accused and is the Director of the first accused company namely Fanatic Systems Private Limited which is also engaged in distribution of Apple I phones etc. The first accused approached the respondent and placed order for purchase of Apple I phones etc. The products were delivered to the first accused with detailed invoices worth about Rs.3,90,13,461/-. The first accused issued cheque bearing No. 000031 dated 25.08.2018. The respondent presented the said cheque in their bank and the same was dishonored on 29.08.2018 on the ground of



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“Funds Insufficient”. On 19.09.2018, the respondent issued the statutory notice to all the accused under Section 138 of Negotiable Instruments Act. The same was returned as refused by all the persons except the petitioner. The fourth accused sent a reply notice dated 25.09.2018 stating that there is no liability to make payment. Then the respondent filed a complaint under Section 138 Cr.P.C., before the learned Judicial Magistrate No.IV, Tiruchirapalli. The learned Judicial Magistrate has taken the complaint on file in S.T.C.No.838 of 2018.

2.To quash the said proceedings, he filed this quash petition and the learned counsel appearing for the petitioner, after making elaborate submissions, made a request before this Court to permit him to raise all the above points before the learned trial Judge. He also made the request to dispense with the appearance of the petitioner before the trial Court during trial and speedy disposal of the trial.

3.This Court is inclined to accept the request of the petitioner. Accordingly, this quash petition is disposed of with the following directions:



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3.(a).The learned Judicial Magistrate Court No.IV, Tiruchirappalli, is directed to dispose the case in S.T.C.No.838 of 2018 within a period of six months from the date of receipt of a copy of this order. The petitioner is at liberty to raise all the contention before the learned trial Judge and produce all the documents as per law and the learned trial Judge is directed to consider the same independently as per law.

3.(b).The appearance of the petitioner is dispensed with before the trial Court on all hearing dates except the following hearings:

- (i) The date of initial questioning to answer the charges;
- (ii) The date of questioning under Section 313 Cr.P.C;
- (iii) On the date of Judgement.

3.(c). The petitioner is directed to give an undertaking in the form of affidavit that he will be duly represented by a counsel on all hearing dates.

3.(d). The petitioner shall not dispute the identity of the witnesses.

3.(e). The petitioner shall appear before the Court in the event his



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presence is insisted by the trial judge for the purpose of identification.

3.(f). If the petitioner adopts any dilatory tactics, it is open to the Trial Court to insist for his appearance and deal with the petitioner in accordance with the judgment of Supreme Court of India in ***State of Uttar Pradesh Vs. Shambunath Singh, reported in 2001 (4) SCC 667.***

Consequently, connected miscellaneous petitions are closed.

17.10.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
sbm

To

The learned Judicial Magistrate No.IV,
Tiruchirappalli



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K.K.RAMAKRISHNAN, J.

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