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CrI.O.P.No.2219 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:09.07.2024

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

CrI.O.P.No.2219 of 2024
and
CrI.M.P.Nos.1590 & 1592 of 2024

1.Thiru.Dakshnamoorthy
Director,
M/s S.V.R.Infrastructure Private Limited,
No.30/62, North Boag Road,
2nd Floor, Jayalakshmi Complex,
T.Nagar, Chennai 600 017.

2.Thiru.Noel Selvaraj
Director,
M/s S.V.R.Infrastructure Private Limited,
Presently residing at:
NO.17/4, Ponnangipuram 1st Street,
Nungambakkam, Chennai 600 034.

.. Petitioners

/versus/

M.Chinnu

.. Respondent

Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for records and quash the complaint in S.T.C.No.5824 of 2023 on the file of the learned Fast Track Court-II, Metropolitan Magistrate, Egmore at Allikulam, Chennai.



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For Petitioners :Mr.Praksh Goklaney

For Respondent :Mr.M.R.Thangavel

ORDER

The petitioners herein, who are Directors of the Company viz.,
M/s S.V.R. Infrastructure Private Limited arrayed as A4 and A5 in
S.T.C.No.5824 of 2023 are before this Court to quash the complaint on
the ground that the complaint filed under Section 138 of Negotiable
Instruments Act, 1881, does not whisper about the knowledge and
involvement of the petitioners in the day to day affairs of the company.

2.When the matter came up for admission, this Court held that
from the materials as well as documents relied by the complainant, does
not implicate A4 for day to day affairs of the company and the petition to
quash filed by A5 was dismissed and to ascertain whether there is any
material to incriminate A4, the matter was adjourned on 07.03.2024.

3. Today, when the matter was taken up for consideration, the
learned counsel appearing for the petitioners submitted that nowhere in



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the complaint, there is whisper about the involvement of A4 in the affairs of the company to hold him vicarious liable for the offence under Section 138 of Negotiable Instruments Act, 1881.

4. The learned counsel appearing for the respondent submitted that there is a specific allegation in the complaint that on 23.05.2013 the accused 2 to 5 acknowledged the issuance of the four cheques. The said acknowledgement was also referred by the learned counsel which would indicate that payment of Rs.20,00,000/- by four cheques, each for the value of Rs.5 lakhs has been handed over to the complainant as security as early as 23.05.2013.

5. On perusal of the complaint, this Court finds that the cheques, which are the subject matter of the complaint is dated 13.08.2019 i.e., nearly 6 years after acknowledging and handing over of the cheques as security. There is no whisper in the complaint about this respondent regarding his responsibility in the day to day affairs of the company.



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6. A mere extract of the provision in the complaint may not be sufficient to sustain the complaint under Section 138 of Negotiable Instruments Act, 1881. There must be some materials to show that on the date of which the cheques have been given i.e. in this case on 13.08.2019, the petitioner who is the fourth accused in the complaint had knowledge about the issuance of the cheques and he gained knowledge through his responsibility and managing the day to day affairs of the company. In the absence of such specific averment in the complaint, this Court finds that the prosecution against the fourth accused may not sustain and hence, the complaint in S.T.C.No.5824 of 2023 on the file of the Fast Track Court-II, Metropolitan Magistrate, Egmore, Allikulam at Chennai, is quashed in respect of the 1st petitioner alone.

7. Accordingly, this Criminal Original Petition is allowed in so far as the first petitioner (A4) is concerned. In respect of the 2nd petitioner/5th accused, this Criminal Original Petition is already dismissed vide order dated 08.02.2024. Consequently, connected Miscellaneous Petitions are closed.



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Index:yes/no

Neutral Citation:yes/no
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To:

The learned Fast Track Court-II, Metropolitan Magistrate, Egmore at
Allikulam, Chennai.

DR.G.JAYACHANDRAN,J.

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