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CrI.O.P.No. 4190 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2024

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CrI.O.P.No. 4190 of 2022

and

CrI.M.P.Nos. 2088 & 2091 of 2022

P. Vasu @ P. Vasu Kumar

... Petitioner

Vs.

R.R.G.Chickens,
Rep., by its Managing Partner,
K. Mani,
No.1/19, New Market,
Udhagamandalam – 1.

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C.,
praying to call for the entire records in pursuant to the S.T.C.No.651 of
2020 on the file of the Judicial Magistrate, Udhagamandalam and quash the
same.

For Petitioner : Mr.A.Deivasigamani

For Respondent : No Appearance



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ORDER

The petitioner has filed this Criminal Original petitions to quash the proceedings in STC.No. 651 of 2020 on the file of the Judicial Magistrate, Udhagamandalam, in which cognizance was taken for the offence punishable under Section 138 of Negotiable Instrument Act.

2. The case of the prosecution is that the defacto complainant is running the business of whole sale of Chicken under name and style of M/s.R.R.G.Chickens, Ooty and the 1st accused is doing retail business of selling Chicken under the name and style of M/s.V.K.V.Broilers at Ondipudur, Coimbatore. The 2nd and 3rd accused persons are partners of the said firm and doing day to day affairs of the said firm. The accused persons are dealing business with the complainant on credit basis for the past several years. On 25.10.2018, the accused outstanding amounts to the complainant is Rs.80,47,690/- and for the purpose of clearing the lawful due amount on 13.01.2020, the accused have issued the cheque bearing No.000137 drawn on HDFC Bank, Singanallur Branch, Trichy Road, Coimbatore-5. But the same was returned as “Funds Insufficient”. Based on which the respondent lodged a complaint against the petitioner. Hence, the case.



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3.The learned counsel for the petitioner submitted that the petitioner has not issued any cheque and not at all signed in the alleged cheque in question bearing Cheque No.000137 dated 13.01.2020 belongs to the accused 1 and 2. He is carrying separate business which is not connected with the M/s.V.K.V.Broilers, who is the 1st accused and 2nd accused in the STC.No.651 of 2020 pending disposal on the file of the Judicial Magistrate, Udthagamandalam. The complainant have not filed any document to prove that M/s.V.K.V.Broilers is the partnership firm and there is no specific averments about the specific transaction between the petitioner and the respondent. The petitioner running a hotel in the name and style of VKS.Restaurant, at Irugur Road, Ondipudur and he will not participate in the managerial affairs of M/s.VKV Broilers. He further submitted that he is no way connected with the alleged offence lodged by the defacto complainant. Hence, he prays to quash the proceedings against the petitioner.

4. On a perusal of the records, it reveals that before initiating the proceedings under Section 138 of Negotiable Instrument Act, the defacto complainant issued notice to the three accused persons. But no reply was



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given on their side. So the proceedings were initiated, if at all the petitioner is not a partner with the 1st accused concerned. Liberty is granted to the petitioner to work out his remedy before the trial Court and put forth all his defence, at this stage, this Court declines to quash the proceedings in S.T.C.No.651 of 2020 on the file of the Judicial Magistrate, Udhagamandalam.

5. Accordingly, the Criminal Original Petition is dismissed as devoid of merits. Consequently, the connected miscellaneous petitions are closed.

11.01.2024

Speaking Order/ Non Speaking Order

Index: Yes/ No

Neutral Citation: Yes/No

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To

1. The Judicial Magistrate, Udhagamandalam.



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T.V.THAMILSELVI, J.

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