



WEB COPY



Crl.O.P.Nos.5117, 5130, 5131, 5132, 5118, 5124, 5127 and 5129 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

**Crl.O.P.Nos.5117, 5130, 5131, 5132,
5118, 5124, 5127 and 5129 of 2023**

P.Vijayanand

... Petitioner in Crl.O.P.5774/2023

Vs.

1.Attapetta Global Private Limited
Represented by its Directors

2.Sivalingam Sadhappan

3.Varunan Premchand Bharathi

4.Karthik Srinivasan Pobathy ... Respondents in Crl.O.P.5774/2023

Prayer in Crl.O.P.No.5774 of 2023:

Petition filed under Section 482 of Cr.P.C., seeking to set aside the order dated 05.12.2022 passed in C.M.P.No.1028 of 2022 in S.T.C.No.982 of 2021 and to direct the respondents/ accused to pay 20% of the cheque amount to the credit of S.T.C.No.982 of 2021 pending on the file of learned Judicial Magistrate, Fast Track Court at Poonamallee.

For Petitioner : Mr.M.V.Seshachari

For Respondents : Mr.T.Gowthaman
Senior Counsel
for M/s.S.Karpagapriya



CrI.O.P.Nos.5117, 5130, 5131, 5132, 5118, 5124, 5127 and 5129 of 2023

WEB COPY

COMMON ORDER

The subject matter of challenge in all these petitions pertains to the order passed by the Court below dismissing the applications filed in each complaint under Section 143 A of the Negotiable Instruments Act.

2.Heard the learned counsel for the petitioner and the learned counsel for the respondents.

3.The petitioner had instituted private complaints against the respondents for the offence under Section 138 of the Negotiable Instruments Act. The debt/ liability was traced from a franchise agreement that was entered into between the parties. According to the petitioner, the post dated cheques were issued by the respondents towards minimum guarantee amount of Rs.3,81,000/- per month for a period of five years. When these cheques were deposited, the same was dishonoured and as a result, the complaints were filed before the Court below.

4.During the pendency of the complaint, the petitioner filed an application under Section 143 A of the Negotiable Instruments Act in



CrI.O.P.Nos.5117, 5130, 5131, 5132, 5118, 5124, 5127 and 5129 of 2023

each complaint seeking for a direction to the respondents/ accused to

WEB COPY

deposit 20% of the cheque amount. These applications came to be dismissed by the Court below and aggrieved by the same, the present criminal original petitions have been filed before this Court.

5.On carefully going through the affidavit that was filed in support of the application filed under Section 143 A of the Negotiable Instruments Act, it is seen that there is absolutely no reason assigned as to why the respondent/ accused must be directed to deposit 20% of the cheque amount. In view of the same, the Court below came to a conclusion that the respondents/ accused cannot be mechanically directed to deposit 20% of the cheque amount without the petitioner/ complainant assigning any reason as to the grounds on which he is seeking for such a direction against the respondents/ accused.

6.Only during the course of arguments before this Court, the learned counsel for the petitioner/ complainant was giving the reasons as to why the respondents/ accused must be directed to deposit 20% of the cheque amount by pointing out, the franchise agreement which provides for the payment for minimum guarantee. The subject matter



CrI.O.P.Nos.5117, 5130, 5131, 5132, 5118, 5124, 5127 and 5129 of 2023

of challenge in these petitions pertains to the order passed by the

WEB COPY

Court below dismissing the applications filed under Section 143 A of the Negotiable Instruments Act. Hence this Court must only see if the orders passed by the Court below is liable to be interfered. If while filing the applications before the Court below, no reasons have been assigned by the petitioner/ complainant for directing the respondents/ accused to deposit the amount, such reasons cannot be developed at the time of arguing the petition before this Court. The learned magistrate did not have the opportunity to appreciate the reason that is now being assigned by the petitioner/ complainant before this Court. Therefore, the reason that has been assigned by the learned counsel for the petitioner in these petitions cannot be considered while dealing with the order passed by the Court below.

7.This Court does not find any illegality or infirmity in the order passed by the Court below and it does not require the interference of this Court. It is also brought to the notice of this Court that the examination of witnesses on the side of the complainant has been completed and the case is at the stage of questioning under Section 313 (1) (b) of Cr.P.C. Hence it would suffice if a direction is issued to



CrI.O.P.Nos.5117, 5130, 5131, 5132, 5118, 5124, 5127 and 5129 of 2023

the Court below to complete the proceedings within a time frame.

WEB COPY

8.In the result, all these criminal original petitions are disposed of with a direction to the learned Judicial Magistrate, Fast Track Court at Poonamallee to dispose of S.T.C.Nos.982 of 2021, 226 of 2022, 427 of 2022, 227 of 2022, 224 of 2022, 980 of 2021, 225 of 2022 and 983 of 2021 respectively, within a period of six months from the date of receipt of a copy of this order. It is left open to both the parties to raise all the grounds before the concerned Court and the same will be dealt with on its own merits and in accordance with law.

08.02.2024

pri

Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Judicial Magistrate,
Fast Track Court at Poonamallee.

2.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.



WEB COPY



Crl.O.P.Nos.5117, 5130, 5131, 5132, 5118, 5124, 5127 and 5129 of 2023

N.ANAND VENKATESH,J.
pri

**Crl.O.P.Nos.5117, 5130,
5131, 5132, 5118, 5124,
5127 and 5129 of 2023**

08.02.2024