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Crl.OP.No.6815 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.No.6815 of 2024

Sara Beena Samuel,
Director,
M/s.Swan Electric Contracts Company Pvt Ltd.,
Registered address at
34. Khadar Nawazkhan Road,
Kakani Towers, 3rd Floor, Nungambakkam,
Chennai600 006. ... Petitioner

Vs.

M/s.Akash Cable Corporation,
Rep by its Proprietrix,
Mrs.J.Shoba Lalith,
No.106, Govindappa Naicken Street,
Chennai-600 001. ... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C.,
to call for the records in CC.No.3324 of 2023 on the file of Fast Track
Court IV, Metropolitan Magistrate Court at George Town, Chennai and
quash the same as far as this petitioner is concerned.

For Petitioner : M/s.Thomas T Jacob

For Respondent : Mr.N.Ravishankar Vallatharasu



ORDER

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This Criminal Original Petition is filed to quash the criminal complaint registered under Section 138 of Negotiable Instruments Act. The petitioner is arrayed as 3rd accused in the capacity of Director of the 1st accused company. Contending that she is not the signatory of the cheque nor person involved in the day to day affairs of the the company.

2. The learned counsel appearing for the petitioner submits that in the complaint itself he has specifically stated that the 2nd and 3rd accused are the Directors of the 1st accused company and they are involved in the day to day affairs of the 1st accused company. It is also specifically stated in the complaint that the 2nd accused has issued the cheque to the complainant with the knowledge and consent of the 3rd accused. The learned counsel further submits that the 2nd and 3rd accused being the husband and wife and they are involved in the entire transaction right from the contract of purchase and settling the bills.

3. Since on perusing the complaint, this Court finds that it is not a



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mere extract of the expression in the statute, but, the complainant has made out and *prima facie* case that the petitioner along with the 2nd accused been managing the affairs of the 1st accused company.

4. The learned counsel for the petitioner referring the registration certificate of the company issued on 02.08.2018 would submit that only the 2nd accused, the Director as per the records. Therefore, she cannot be arrayed as accused vicariously liable for issuance of the cheque.

5. It is not the case of the petitioner that she is not one of the Directors of the company. Her contention in the quash petition is she is not signatory to the cheque and she cannot be held liable for issuance of cheque which was subsequently dishonoured. Section 141 of Negotiable Instruments Act deals about offence by company and the persons who are vicariously liable for the offence committed by the company uses to expression that every person who, at the time the offence was committed, was incharge of and was responsible to the company, for the conduct of the business of the company will be held liable along with the company.

6. Since the complaint states about the involvement of the present



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petitioner in the affairs of the company and her responsibility as one of the Directors been spoken in the complaint, this Court holds that the petitioner has to establish her innocence in the trial and it is not a case which prima facie sufficient to interfere in the pending trial and quash as against the petitioner. Hence, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

16.07.2024

Vv

To

1. The Fast Track Court IV,
Metropolitan Magistrate Court,
George Town, Chennai
2. The Public Prosecutor,
High Court of Madras,
Chennai.



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Dr.G.JAYACHANDRAN,J.

Vv

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