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Crl.O.P.Nos.9992 & 9933 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2024

CORAM

THE HONOURABLE Dr.JUSTICE G.JAYACHANDRAN

Crl.O.P. Nos.9992 & 9933 of 2024
and Crl.M.P.No.6828, 6865 & 6866 of 2024

1. R.Thyagarajan
2. S.Nainar

... Petitioners in both petitions

/vs/

M/s.New Link Overseas Finance Limited
By its Director Mr.U.P.Prakasham
Mamatha Complex,
Second Floor,
No.25, Whites Road,
Royapettah, Chennai – 600 014.
Duly rep. by its Authorized Signatory,
Present General Manager P.Viswanathan

... Respondent in both petitions

Criminal Original Petitions are filed under Section 482 Cr.P.C, to
call for the entire records in C.C.Nos.6258 & 1707 of 2019 pending on the
file of the FTC-IV, in the Court of the Metropolitan Magistrate Court,
George Town, Chennai and quash the same, in so far as the petitioners are
concerned.

For Petitioner ... Mr.G.Veerapathiran



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COMMON ORDER

The petitioners who are the accused 2 & 3 in a private complaint initiated under Section 138 of the Negotiable Instruments Act filed this petition contending that on the date of issuance of cheque i.e. 07.06.2019, they were not the Director of the accused company and they resigned in the year 2014 itself and the same has been intimated to the complainant as well as to the authorities. In spite of that a blank cheque has been given prior to the year 2014 for the purpose of security and it has been filled up and presented which initiates a criminal prosecution.

2. The learned counsel for the petitioners relying upon the resignation intimation dated 21.02.2011 and approval of the resignation by the Ministry of Corporate Affairs dated 11.03.2014, contended that the presentation of Non CTS cheque in the year 2019 which was issued prior to the year 2014 would clearly show that the cheque was not issued for discharge of any date. As far as the petitioners are concerned, they have no liability to honour the cheque having resigned from the company.

3. These facts which are now canvassed in the quash petition ought



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to have been raised when the petitioners received the statutory notice. Had they placed all those facts in the reply to statutory notice, then the complainant could have worked out his alternative remedy. Now having allowed the complaint to be taken on file by not replying to the statutory notice and keeping the matter for five years, the present petition has been filed based on the factual aspects which has to be tested by the trial Court.

4. This court cannot look into those controverted factual aspects in exercise of its power under Section 482 Cr.P.C. Hence, these petitions are liable to be dismissed. However, liberty is given to the petitioners herein to canvass all these points before the trial Court and prove that there is no enforceable debt as against them

5. In view of the above stated reasons, these Criminal Original Petitions are dismissed. No costs. Connected miscellaneous petitions are closed.

25.04.2024

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G.JAYACHANDRAN, J.,

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To:

The Metropolitan Magistrate Court,

George Town, Chennai

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