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Crl.O.P.No.10495 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

Crl.O.P.No.10495 of 2024

and

Crl.M.P.No.7161 of 2024

M/s.United Travel Services,
A Division of United Visa Services Private Ltd.,
Rep.by its Director,
Mr.S.Arul Lazaran

... Petitioner

Vs.

1.PGC Textiles Corporation Pvt.Ltd.
Represented by its Chairman cum Managing Director,
Mr.D.Prem
“Prem Gardens”
5-A, Rajajo Nagar, P.N.Road,
Tiruppur-641 602.

2.Mr.D.Prem,
Chairman cum Managing Director,
PGC Textiles Corporation Pvt.Ltd,
“Prem Gardens”
5-A, Rajajo Nagar, P.N.Road,
Tiruppur-641 602.

3.Mr.Aadith D.Vicram,
Director,
PGC Textiles Corporation Pvt.Ltd,



Crl.O.P.No.10495 of 2024

“Prem Gardens”

5-A, Rajajo Nagar, P.N.Road,
Tiruppur-641 602.

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to set aside the order dated 26.03.2024 in Crl.M.P.No.115 of 2017 in C.C.No.2303 of 2013 passed by the learned Magistrate FTC-II, Allikulam, Egmore, Chennai and consequently direct the respondents to produce the documents in original cheque bearing No.936682 dated 20.09.2012 for an amount of Rs.14,18,999/- as well as original cheque bearing No.936686 dated 20.12.2012 for an amount of Rs.62,000/- both drawn on Indian Overseas Bank, Tiruppur Branch.

For Petitioner : Mr.Vijayalakshmi K.Rajaratnam

ORDER

The petitioner is the complainant who has filed an application under Section 91 Cr.P.C., seeking production of certain documents by the accused. The accused by way of counter has stated that those documents are not in his possession. The trial Court recording the same had dismissed the application preferred by the petitioner. Being aggrieved, the present Criminal Original Petition is filed.



2. The learned counsel appearing for the petitioner/complainant submitted that on various other occasions, the possession of the cheques and other documents been admitted by the accused person. Whereas, when the application filed for production of those documents, the accused person has denied the possession of those documents. Hence, the trial Court order has to be set aside and the direction must be issued to the respondent/accused for producing those documents.

3. Law of evidence is very clear on those points. If a person in possession of the documents withheld it despite the direction of the Court, the Court can draw adverse inference against the said person but cannot compel the person for producing the documents. Whereas, in this case the trial Court after considering the petition and counter has *prima facie* been satisfied that the documents are not in possession of the respondent, but it is not the finality of the fact. At the end of the trial, the petitioner has every right to place documents and canvas before the trial Court that the respondent wantonly withhold the documents sought for and therefore, adverse inference to be drawn. The Criminal Original Petition



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Dr.G.JAYACHANDRAN,J.

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under Section 482 of Cr.P.C., to compel a person to produce the documents which he denies possession may not be appropriate. Hence this Criminal Original Petition is dismissed. Consequently, the connected Criminal Miscellaneous Petition is closed.

29.04.2024

Index : Yes/No

Neutral Citation : Yes/No

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To

The Magistrate FTC-II, Allikulam, Egmore, Chennai

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