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Crl.O.P.No.14884 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.14884 of 2023

And

Crl.M.P.Nos.9270 and 9271 of 2023

1.C.Saravanan

2.L.S.Aravind Kumar

... Petitioners

Vs.

Eswaramoorthi

... Respondent

Prayer:

Petition filed under Section 482 of Cr.P.C., seeking to call for the entire records pertaining to S.T.C.No.201 of 2023 pending on the file of the Judicial Magistrate Court No.I at Bhavani, Erode District and quash the same as illegal, incompetent by allowing criminal original petition.

For Petitioners : M/s.K.Suthan

For Respondent : Mr.J.Jaya Bharath

ORDER

This petition has been filed to quash the proceedings pending in S.T.C.No.201 of 2023 on the file of the Judicial Magistrate Court No.I at Bhavani, Erode District.



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2.Heard the learned counsel for the petitioners as well as the learned counsel for the respondent.

3.The main ground that was raised by the learned counsel for the petitioners is that even without issuing statutory notice to the partnership firm, the complaint has been filed before the Court below and therefore, there is non compliance of Section 138 (b) of the Negotiable Instruments Act.

4.On carefully going through the statutory notice issued on 06.01.2023, it is seen that the petitioners were served with notice in their capacity as the Managing Partner and Partner of the firm. The partnership firm is an artificial person and it is represented by natural persons. Therefore, the petitioners having received the statutory notice, must be deemed to have received the same on behalf of the partnership firm also.

5.While the complaint was filed by the respondent, the partnership firm has been made as A1 and the other partners have been made as A2 and A3. It sufficiently satisfies the requirements



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under Section 141 of the Negotiable Instruments Act.

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6.The judgment that was relied upon by the petitioner in Crl.O.P.No.13147 of 2015 dated 23.07.2019, does not apply to the facts of this case. In that case, partnership firm was not even arrayed as an accused in the complaint. Therefore, this Court held the complaint filed against the partners alone is not maintainable.

7.This Court does not find any ground to quash the proceedings and it is left open to the petitioners to raise all the grounds before the Court below and the same will be considered on its own merits and in accordance with law. The findings given in this order will not have any bearing on the Trial court.

8.In the result, this criminal original petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

31.01.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

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N.ANAND VENKATESH,J.
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To

- 1.The Judicial Magistrate Court No.I at Bhavani,
Erode District.
- 2.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

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And
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