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CRL O.P. No.22473 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.09.2024

CORAM

The Hon'ble Mr.Justice P.DHANABAL

CRL OP.No.22473 of 2022

and

Crl. M.P. Nos.14445 & 14448 of 2022

1. M/s. Thiru Thanigai Spinning Mills Pvt. Ltd.,
represented by Moorthy Palanisamy.
 2. Moorthy Palanisamy S/o. Palanisamy
Director of M/s. Thiru Thanigai Spinning Mills Pvt. Ltd.,
 3. M. Kamatchidevi W/o. P. Moorthy
Director of M/s. Thiru Thanigai Spinning Mills Pvt. Ltd.,
 4. M. Chaitanya Keerthy W/o. Prabhu Devarajan
Director of M/s Thiru Thanigai Spinning Mills Pvt. Ltd.,
 5. Prabhu Devarajan S/o. Devarajan
Director of M/s. Thiru Thanigai Spinning Mills Pvt. Ltd.,
 6. Eswarakumar
Director of M/s. Thiru Thanigai Spinning Mills Pvt. Ltd.,
- ... Petitioners / Accused 1 to 6

VS

M/s. H.M. Textiles (P) Ltd., ... Respondent / Complainant

PRAYER: - The Criminal Original Petition is filed under Section 482 of



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Criminal Procedure Code praying to call for the records relating to the complaint in C.C. No.1638 of 2018 on the file of the Judicial Magistrate, Fast Track Court No.II, Coimbatore and quash the same.

For Petitioners : Mr. R. Sivakumar

For Respondent : Mr. N. Ponraj

ORDER

This Criminal Original Petition has been filed by the petitioners to quash the proceedings pending in C.C. No.1638 of 2018 on the file of the learned Judicial Magistrate, Fast Track Court No.II, Coimbatore.

2. According to the petitioner, M/s. Thiru Thanigai Spinning Mills Pvt. Ltd., company engaged in the business of manufacturing textiles and raw materials. The respondent company M/s. HM Textiles Private Limited is engaged in the business of manufacturing polyester staple fibres supplied to spinning mills. In the year 2016, the petitioners made a request for the supply of materials from the respondent company on credit basis and materials were supplied. On 29.02.2016, the petitioners issued a letter regarding the credit guarantee for the cheques issued as



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security for the supply of fibres and the same has also been acknowledged by the respondent. There is no legally enforceable debt or liabilities as alleged by the respondent. On 21.11.2016, the petitioners' manufacturing textile unit met with a fire accident. Due to that, the entire stock materials, machinery and the whole factory premises were destroyed and thereby, they sustained loss to the tune of Rs.9 crores. The respondent had also issued a letter dated 26.06.2018 demanding the payments for the supply of PSF materials as on 31.05.2018 with interest and the petitioners also issued a reply letter dated 07.07.2018 regarding the fire accident and also explained that the petitioners' insurance claim was also made through arbitration proceedings. The respondent knowing the facts and circumstances of the petitioners and also knowing that the petitioners' accounts and other assets were frozen by the authorities, filed the present cheque case, which was issued for security purpose. Therefore, the pending proceedings in C.C. No.1638 of 2018 are abuse of process of law and the same are liable to be quashed.

3. The learned counsel appearing for the petitioners would submit



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that there are business transactions between the petitioners and the respondent companies, that the petitioners have issued cheques bearing Nos.558028 and 558029 for the security purpose for the supply of goods by the respondent and thereafter, the petitioners' company met with a fire accident and sustained huge loss and the same was also informed to the respondent. Thereafter, the respondent presented the cheques which were issued for security purpose and filed a cheque complaint and therefore, the same has to be quashed.

4. The learned counsel appearing for the respondent would contend that there are business transactions between the petitioners and the respondent, that during the business transactions, there was due payable by the petitioners, thereby they issued a cheque in the name of the respondent and when the cheque was presented for collection, the same was returned as 'exceeds arrangement', thereby they issued notice to the petitioners on 25.09.2019 and thereafter, the petitioners have not issued any reply notice and not repaid the amount, thereby, the respondent filed a cheque case before the learned Judicial Magistrate, Fast Track Court No.II, Coimbatore and the same is pending for trial.



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Therefore, at this stage, the grounds raised by the petitioners that the cheques were issued for security purpose, cannot be decided and it requires elaborate trial. Therefore, this petition is liable to be dismissed.

5. Heard both sides' arguments and perused the materials available on record.

6. In this case, it is an admitted fact that the petitioners have issued cheques in favour of the respondent and when the cheques were presented for collection, they were returned. Thereafter, the respondent issued legal notice and due to non-reply and non-payment, the respondent filed a cheque complaint and the same is pending in C.C. No.1638 of 2018. The main ground raised by the petitioners is that there are business transactions between the petitioners and the respondent, that for the business purpose, they entrusted two cheque leaves to the respondent as security and in the meantime, the petitioners' company met with a fire accident and the same was also informed to the respondent, however, the respondent presented the cheque for collection, which was presented for security purpose. The above said contention of the



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petitioners cannot be decided at this stage and whether the cheques were issued for security purpose or not has to be decided through trial and not through this petition. It is the matter of trial. Therefore, the matter requires elaborate trial and thereby, the grounds raised by the petitioners are nothing but defence to be established through proper evidence. Therefore, at this stage, this Court cannot conduct a mini trial. The petitioners have to face the trial and they can prove their defence through proper evidence. Therefore, this petition has no merits and deserves to be dismissed.

7. Accordingly, the Criminal Original Petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

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index: Yes/No
Internet: Yes/No
Speaking/Non Speaking order
mjs

To

1. The Judicial Magistrate, Fast Track Court No.II, Coimbatore.

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2. The Public Prosecutor, High Court, Madras.

P.DHANABAL,J
mjs

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