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Crl.O.P.Nos.20309 & 20311 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.Nos.20309 & 20311 of 2024
& Crl.M.P.Nos.11758 & 11759 of 2024

Crl.O.P.No.20309 of 2024

M/s.Vaasan Health Care (P) Limited *alias*

M/s.Vasan Healthcare Pvt.Ltd,

Rep. by Mr.Vimal Chandrasekran, Head Human Resources,

No.15/A, First Cross, Thillai Nagar Main Road,

Tiruchirapalli – 600 018.

Now having office at:

No.120A, Bazaar Road,

Saidapet, Chennai – 600 015.

... Petitioner/1st Accused

/versus/

M/s.Sree Gokulam Chits &

Finance Co., (P) Limited.

Represented by Co-ordination Manager,

Mr.N.K.Shanmugam,

Sree Gokulam Towers, No:66, Arcot Road,

Kodambakkam, Chennai – 600 024.

... Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C and Section 528 of BNSS, pleased to call for the records quash the proceedings in C.C.No.5807 of 2018 on the file of the Hon'ble Learned Fast Track – III, Metropolitan Magistrate at Saidapet, Chennai against the petitioner/1st accused.



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For Petitioner : Mr.G.Gautham Ram Vittal

For Respondent : Mr.P.Rakesh Kumar

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Sree Gokulam Towers, No.66, Arcot Road,
Kodambakkam, Chennai – 600 024.

... Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C and Section 528 of BNSS, pleaded to call for the records quash the proceedings in C.C.No.5806 of 2018 on the file of the Hon'ble Learned Fast Track – III, Metropolitan Magistrate at Saidapet, Chennai against the petitioner/1st accused.

For Petitioner : Mr.G.Gautham Ram Vittal

For Respondent : Mr.P.Rakesh Kumar



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COMMON ORDER

The petitioners herein are the Corporate Debtors which is the subject matter of the Insolvency and Bankruptcy Code proceedings. The cheque issued after appointment of Resolution Professional returned for insufficiency of fund. Hence along with the Company under Resolution proceedings, the Directors were prosecuted under Section 138 of N.I Act and case is pending in C.C.Nos.5806 & 5807 of 2018 on the file of Fast Track-III, Metropolitan Magistrate, Saidapet, Chennai.

2. The Learned Counsel for the petitioners submits that after initiating Resolution Professionals under IBC, the affairs of the Company vest with Resolution proceedings and the Company cannot be held liable.

3. In support of his argument, the Learned Counsel for the petitioners rely upon the dictum laid down by the Hon'ble Supreme Court in *Ajay Kumar Radheyshyam Goenka -vs- Tourism Finance Corporation of India Ltd* reported in *2023 SCC Online SC 26*. The law laid down by the Hon'ble Supreme Court clearly holds that the Corporate Debtor cannot be



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prosecuted for prior liability after the approval of the Resolution Plan in view of Section 32 A of IBC.

4. Hence, *these Criminal Original Petitions are allowed.* The complaint in C.C.Nos.5806 & 5807 of 2018 on the file of Fast Track Court-III, Metropolitan Magistrate, Saidapet, Chennai against the petitioners/1st accused alone are hereby quashed. It is made clear that the prosecution as against the Directors, who are in-charge of the affairs of the company and had knowledge of the issuance of cheques are not immuned under Section 32A of IBC and therefore, the prosecution against them shall continue. Consequently, connected Miscellaneous Petitions are closed.

17.10.2024

Index : Yes/No

Neutral Citation : Yes/No

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To:-

1. The Learned Fast Track – III, Metropolitan Magistrate at Saidapet, Chennai.



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Dr.G.JAYACHANDRAN,J.

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