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Crl.O.P.Nos.25535 and 25690 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.Nos.25535 and 25690 of 2024 and

Crl.M.P. Nos.14308 and 14309 of 2024

Ramachandran

... Petitioner in Both Crl.OPs.

Vs.

M.Singaravelan

... Respondent in Crl.O.P.No.25535/2024

S.Divya

... Respondent in Crl.O.P.No.25690/2024

Common Prayer: Criminal Original Petitions filed under Section 528 of B.N.S.S. praying to call for the records in S.T.C. No.8002 of 2024 and S.T.C. No.8004 of 2024, pending on the file of the Metropolitan Magistrate, Fast Track Court-II, Egmore, Allikulam, Chennai and quash the same as far as the petitioner is concerned.

In both Crl.O.Ps.

For Petitioner

: Mr.K.Balasubramaniam

For Respondent

: Mr.Mohamed Muzamil



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ORDER

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These Criminal Original Petitions have been filed by the 2nd accused, in S.T.C. Nos.8002 and 8004 of 2024, pending on the file of the Metropolitan Magistrate, Fast Track Court-II, Egmore, Allikulam, Chennai, to quash the complaints filed by the respondents under Section 138 of the Negotiable Instruments Act.

2. The learned counsel for the petitioner submitted that the respondents have filed two separate complaints against the petitioner/A2 and his daughter/A1 alleging that A1 and A2 approached the respondents stating that A1 is the Proprietor of M/s. Sri Palani Murugan Mills and A2 is her father looking after the said Mills and in order to develop their Mills, they borrowed a sum of Rs.40,00,000/- for interest at the rate of 12% p.a. for which, both A1 and A2 had executed a promissory note and also issued 8 posted dated cheques towards monthly instalment repayment of loan amount. Thereafter, the accused failed to pay the interest and the cheques issued towards the first instalment got



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dishonoured. After repeated demands and police complaint, the accused settled

only part payment of the loan amount and in order to clear the outstanding liability along with interest, the accused also issued two post dated cheques totalling a sum of Rs.37,70,000/- drawn on HDFC Bank, Coimbatore viz., Cheque No.000155, dated 31.12.2023 for Rs.18,85,000/- in the name Singaravelan (Complainant in Crl.O.P.No.25535/2024) and Cheque No.000154 dated 30.12.2023 for Rs.18,85,000/- in the name of Mrs.Divya (respondent in Crl.O.P.No.25690/2024) and thereafter, when the cheques were presented for collection, the same were dishonoured for the reason "Payment Stopped by Drawer". Hence, the respondents have filed the complainants in S.T.C. No.8002 of 2024 and S.T.C. No.8004 of 2024 in which, the petitioner has been arrayed as A2. Pending complaints, the present petitions have been filed by the petitioner/A2 to quash the same.

3. The learned counsel for the petitioner submitted that the petitioner is the father of A1. A1 namely Sowmiya, on her personal capacity as a



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Proprietrix of M/s.Sri Palani Murugan Mills, borrowed money from the

respondents and issued the cheques. The petitioner is no way connected with the Proprietrix concern of A1 and he is not involved in the day to day affairs of the said concern. Further, the said bank account also does not belong to the petitioner and that the account is neither a joint account nor either or survivor account. The learned counsel further submitted that when the petitioner received the statutory notice under Section 138 of the Negotiable Instruments Act, suitable reply was given clearly explaining the role of petitioner in the business of the said Proprietrix concern. Since because the 1st accused is the daughter and the petitioner, he cannot be vicariously held liable for the offence alleged to have been committed by his daughter. Further the cheques were issued by the 1st accused is for the Proprietrix concern and it is not a Company. Therefore, the complaints against the petitioner have to be quashed.

3. The learned counsel for the respondents would submit that A1 is the company and A2/the petitioner is the Managing Director of the Company.



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6. Therefore, a perusal of the averments made in the complaint, the statutory notice and reply notice and also the sworn statement recorded by the Magistrate, disclose that there is no material to show that the petitioner/A2 also issued the cheques in question or the petitioner also actively participated in the day-to-day affairs of the proprietrix concern eventhough it is not a legal entity. Further, the role of the petitioner has not been mentioned in the allegations levelled in the complaints. In the absence of the same, the petitioner cannot be vicariously held liable for the offence committed by his daughter/A1.

7. Hence, these Criminal Original Petitions are allowed and the complaints against the petitioner in S.T.C. No.8002 of 2024 and S.T.C. No.8004 of 2024 pending on the file of the Metropolitan Magistrate, Fast Track Court-II, Egmore, Allikulam, Chennai are quashed.

8. The learned Metropolitan Magistrate, Fast Track Court-II, Egmore, Allikulam, Chennai, is directed to expedite the trial/enquiry in S.T.C. No.8002 of 2024 and S.T.C. No.8004 of 2024 as against A1 and dispose of the case in



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accordance with law within a period of two months from the date of receipt of a copy of this order and also report to this Court soon after the disposal of the complaints.

9. Further, both the accused/A1 and complainants are directed to extend their fullest co-operation to enable the Magistrate to comply with the order of this Court and if any deviation is found, the same will be viewed seriously.

27.11.2024

Index : Yes / No
Speaking Order : Yes / No
Neutral Citation Case : Yes/No
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To
The Metropolitan Magistrate,
Fast Track Court-II, Egmore,
Allikulam, Chennai



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P.VELMURUGAN. J.

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