



CRL OP(MD). No.1012 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 06.02.2024

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The Hon`ble Mr.Justice M. DHANDAPANI

**CRL OP(MD) No.1012 of 2022
and CrI.M.P.(MD) Nos.717 and 718 of 2022**

Mr. P.S.Ajit Kumar

... Petitioner

Vs

Mr. Elangovan Subbaiah,

... Respondent

PRAYER :- Criminal Original Petition file under section 482 of Cr.P.C., to pleased to call for the records in C.C.No.95/2021 dated 14.07.2021 pending on the file of the Judicial Magistrate No.3, Fast Track Court, Karaikudi and Quash the same against the petitioners/5th Accused.

For Petitioner : M/s. K.Jayamohan

For Respondent : M/s. N. Adithya Vijayalayan

ORDER

This petition has been filed to quash the proceedings in C.C.No. 95/2021.



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2.It is the case of the prosecution that the petitioner is arrayed as A5 and he was the former Director of the 1st accused company. The respondent has filed a complaint under Section 138 of the NI Act, for the dishonour of cheques issued by the 1st accused company, which was taken on file in C.C.No.95/2021. The said complaint was given by the respondent on 14.07.2021 followed by a statutory notice dated 28.05.2021 implicating that the petitioner, being the Director of the company, has issued the cheque and when it was presented it has dishonoured.

3.The learned counsel for the petitioner would submit that the petitioner is the erstwhile Director of the 1st accused company and that the petitioner has tendered his resignation on 29.10.2020, which was also accepted by the Ministry of Corporate Affairs and as such, the petitioner was no longer the Director of the 1st accused company on the date of initiation of the proceedings. The learned counsel would further submit that the 2nd accused is the authorised signatory of the 1st accused company and the petitioner is only responsible for the day today affairs



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of the company and he is nothing to do with the alleged transaction and merely because the petitioner was the Director of the 1st accused company, he has been roped in as an accused. The learned counsel would further contend that without verifying the factual aspects, the respondent has mechanically filed the present complaint. It is his specific contention that when the petitioner was no longer the Director of the first accused company for the period in question, ie., issuance of cheque and dishonour of cheque, the implication of the petitioner is per se illegal and accordingly, the proceedings is liable to be quashed.

4. Heard the learned counsel for the respondent, who would submit that it is not in dispute that the cheques were issued by the first accused company and the petitioner was the Director of the said company and when that being the case, the initiation of proceedings is in accordance with law.

5. This Court has considered the rival submissions made on either side and perused the materials available on record.



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6.It is the case of the respondent that cheques in question were issued by the first accused company and that the same were signed by the petitioner. When it was presented, it got dishonoured. Hence, statutory notice was issued and the complaint dated 14.07.2021 was also preferred. However, it is seen that the petitioner has tendered his resignation as early as on 29.10.2020 and the cheque in question was issued only on 08.03.2021, ie., after the tenure of the petitioner and hence, the petitioner is in no way held responsible for the same. On this sole ground, the criminal original petition is allowed and the proceedings in C.C.No. 95/2021 on the file of the Judicial Magistrate No.III, Fast Track Court, Karaikudi, is hereby quashed in respect of the petitioner alone. As regards the other accused persons, the trial court shall proceed the trial. Consequently connected Miscellaneous Petitions are closed.

06.02.2024

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TO

The Judicial Magistrate No.3,
Fast Track Court,
Karaikudi

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M.DHANDAPANI. J

RR

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