



Crl.O.P.(MD) No.16965 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.02.2024

CORAM

THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.16965 of 2021

and

Crl.M.P.(MD) No.9175 of 2021

1.C.Vijayamanohari

2.S.Pushpa

... Petitioners

Vs.

A.Natarajan

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records relating to the complaint in S.T.C.No.2380 of 2020 on the file of the Judicial Magistrate Court No.V, Tiruchirapalli and quash the same as against the petitioners alone.

For Petitioners : Mr.S.K.Mani

For Respondent : Mr.S.Sarvagan Prabhu

ORDER

Seeking to quash the private complaint filed by the respondent/complainant under Section 200 of Cr.P.C. before the Judicial Magistrate Court No.V, Tiruchirapalli in S.T.C.No.2380 of 2020 against



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the present petitioners and others, for an offence punishable under Section 138 of Negotiable Instruments Act, the present Criminal Original Petition is filed.

2. The case of the respondent/complainant in a nutshell is as follows:

(i) The accused 1 to 5 are running a partnership firm in the name and style of 'M/s.Ravindra Stores'. During August, 2018, they borrowed a sum of Rs.30,00,000/- from the complainant for developing their business and also agreed to re-pay the principal with interest at the rate of 18% per annum. After much efforts, the accused issued two cheques bearing Nos.819743 and 819744, dated 31.03.2020 both drawn on Indian Bank, Main Branch, Big Bazaar St., Trichy for a sum of Rs.30,00,000/- and Rs.5,40,000/- respectively. When the complainant presented the cheques through his banker namely, Indian Bank, Market Branch, Trichy on 03.06.2020, they were returned for the reason 'funds insufficient'.

(ii) Thereafter, the complainant issued a statutory notice dated 15.06.2020 calling upon the accused to re-pay the amount within 15 days. Though the accused received the said notice, they neither came forward to make good the



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payment nor sent any reply notice. Therefore, the complainant filed the private complaint under Section 200 of Cr.P.C. before the Judicial Magistrate Court No.V, Tiruchirapalli.

3. Mr.S.K.Mani, learned counsel for the petitioners would contend that the present petitioners (accused 4 and 5) are only sleeping partners in the firm and actually the Managing Partner alone borrowed money from the complainant and they are not connected with the same. It is also his contention that the complainant had not stated the role played by accused 4 & 5 in the private complaint filed by him before the Judicial Magistrate Court No.V, Tiruchirapalli. In fact, a suit in O.S.No.668 of 2020 was filed by the present petitioners against the Managing Partner of M/s.Ravindra Stores before the II Additional Subordinate Court, Trichy for dissolution of partnership firm and also for rendition of true and proper accounts. In the said suit, a preliminary decree was passed on 22.01.2024. He would therefore contend that in the above circumstances, the private complaint filed by the respondent/complainant should be quashed.

4. Per contra, Mr.S.Sarvagan Prabhu, learned counsel appearing for the respondent/complainant would contend that all the accused are



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running the partnership firm in the name and style of M/s.Ravindra Stores and borrowed a sum of Rs.30,00,000/- from the complainant during August, 2018 and the cheques issued by them got dishonoured on 08.06.2020. His further contention is that though the accused including the present petitioners received the statutory notice, they did not bother to make good the payment.

5. It is pertinent to point out that there is no reference in the Partnership Deed dated 01.04.1998 that the accused 4 and 5 are sleeping partners. The suit for dissolution of partnership and rendition of true accounts was filed only in the year 2020. In the present case, the transaction between the partners of M/s.Ravindra Stores and the complainant took place during August, 2018. As per the Partnership deed, the Managing Partner has powers to borrow loan for managing the affairs of the partnership firm. The petitioners/accused 4 and 5 did not revoke the said power given by them to the Managing Partner. In this regard, no notice was issued by the present petitioners/accused 4 and 5 to the Managing Partner. In the circumstances, the petitioners/accused 4 and 5 cannot now contend that they did not take any active part in the business conducted by all partners and that they are only sleeping partners.



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WEB COPY 6. In view of the above reasons, this Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petition is closed.

20.02.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order

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To

The Judicial Magistrate No.V,
Tiruchirapalli.



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R.HEMALATHA, J.

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