



Crl.O.P(MD).No.20554 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2024

CORAM :

THE HON'BLE MR JUSTICE A.A.NAKKIRAN

Crl.O.P(MD).No.20554 of 2021 and
CrI.M.P(MD).No.11709 of 2021

1. M/s. Thoothukudi Traditional Crop Producer Co., Ltd.,
Rep. through its Managing Director,
Mr.Muthu Velayutham

2.Dhavamani

3.Suresh

... Petitioners

Vs.

Perumalsamy

... Respondent

PRAYER:- Petition filed under Section 482 Cr.P.C., to call for the records in connection with STC.No.214 of 2019 on the file of the learned Judicial Magistrate No.II, Kovilpatti and quash the same.

For 1st Petitioner : Ms.A. Amala

For Respondent : Mr. S. Poornachandran

ORDER

This Criminal Original Petition has been filed to call for the



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records in connection with S.T.C.No.214 of 2019 on the file of the learned Judicial Magistrate No.II, Kovilpatti and quash the same.

2. The case of the prosecution is that on behalf of the A1's Company rep. through its Managing Director Muthu Velayutham, the accused Nos.2 and 3 had purchased the chillies from the complainant on the credit basis and paid the value of the money in installments. In the said purchase transaction, there was a due of Rs.4,01,416/- as per the complainant's accounts. To discharge the part of the above said liability, on behalf of the accused No.1's Company, on the instruction of Muthu Velayutham, accused Nos.2 and 3 had issued a cheque drawn on Pandiyan Grama Bank, Nagalapuram Branch bearing Cheque No. 410761, dated 24.04.2019 for Rs.2,91,387/-. The complainant presented the above cheque for collection. But, it was bounced. The complainant informed the same to the petitioners / accused and they were requested the complainant to represent the said cheque during the first week of June 2019 and assured to honour the same. Based on which, the complainant represented the above said cheque on 04.06.2019 and the same was returned with an endorsement as “insufficient funds” in A1's Company's Bank Account. Hence, the complainant has issued a legal



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notice calling upon the petitioners to pay the dishonoured cheque amount of Rs.2,91,387/-. By way of reply, the first accused has stated that he is not related to the accused No.1's Company and he had not given any specific particulars as to who is the person representing on behalf of A1's Company. Hence, based on the complaint, a case has been registered against the petitioners in STC.No.214 of 2019 on the file of the Judicial Magistrate No.II, Kovilpatti for the offences under Sections 142 and 138 of Negotiable Instruments Act. Challenging the same the present Criminal Original Petition has been filed.

3. The learned counsel appearing for the first petitioner submitted that the first petitioner is no way connected with the said offence and his name has been falsely implicated in this case. He would further submit that even though the cheque has been issued in the name of the Thoothukudi Traditional Crop Producer Co., Ltd., it has not been stated that the said Velayutham is a Director of the said Company and hence, prays for allowing this petition.

4. The learned counsel appearing for the respondent / complainant would submit that there are materials available to proceed



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with the case as against the first petitioner herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the first petitioner have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. On perusal of the records, it is seen that this Court already by order, dated 22.12.2021 dismissed this petition as against the petitioners 2 and 3 stating that the complaint cheque was signed by the petitioners 2 and 3 . In such circumstances, this Court raised the question with regard to the position of the said Velayutham in the said Company, for which, the first petitioner has filed an affidavit stating that he is in no way connected with the said Company and also the first petitioner has no knowledge about as to who is responsible for the Company. The said contention is not acceptable one. If the petitioner is not in the position of Managing Director of the said Company, he has to answer this Court, as to who is the Managing Director of said Company. Even though the burden of proof lies on the counsel for the respondent /



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defacto complainant, since the learned counsel for the first petitioner failed to answer this question, this Court is of the considered view that the trial court has rightly taken the case on file and that no prejudice would be caused to the first petitioner if he is subjected to due trial as sufficient opportunity would be given to the first petitioner to put forth his defence. The first petitioner cannot be let free by quashing the charge framed against him as that would completely undermine the alleged acts, which is the subject matter of criminal trial pending against him.

7. For the reasons aforesaid, this Court finds no ground or scope to quash STC.No.214 of 2019 on the file of the learned Judicial Magistrate No.II, Kovilpatti. Accordingly, this petition, being devoid of merits, is dismissed. Consequently, connected miscellaneous petition is closed.

18.06.2024

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
trp

To

The Judicial Magistrate No.II, Kovilpatti



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A.A.NAKKIRAN, J.

Trp

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