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Crl.O.P.No.9156 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2025

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.9156 of 2023

and

Crl.M.P.Nos.5922 & 5923 of 2023

M.Chandrasekar alias Chandrasekaran

... Petitioner

Vs.

M/s.Abirami Paper,
Represented by its Proprietor,
Mr.SV.RM Ramanathan,
Represented by power of attorney agent,
Mr.S.Arunachalam
having office at
No.4, Kasturi Estate,
2nd street, Poes Gardent,
Chennai – 86.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records and quash the proceedings in C.C.No.1156 of 2021 on the file of the Fast Track Court No.III, Saidapet, Chennai.

For Petitioner : Mr.A.Ashwin Kumar

For Respondent : Mr.T.V.Narendiran



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ORDER

This Criminal Original Petition has been filed to call for the records and quash the proceedings in C.C.No.1156 of 2021 on the file of the Fast Track Court No.III, Saidapet, Chennai.

2. Learned Counsel for the petitioner/A2 submitted that the complaint under Section 138 of the Negotiable Instruments Act is instituted against M/s.F.J.SKID PACKS, partnership firm. Neither the petitioner been a partner of the aforesaid firm nor he signed the impugned cheque. The petitioner is no way connected with the day-to-day affairs of the first accused firm. Statutory notice was not served on him. Further, without filing the acknowledgement card, the respondent/complainant lodged a private complaint as against the petitioner herein. Hence, the complaint filed by the respondent/complainant is liable to be quashed.

3. Learned counsel for the respondent/defacto complainant submitted that the petitioner is one of the partners in the abovesaid partnership firm. Though the Signatory is not added as a party, the partners/directors who are actively participating in the day-to-day affairs



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of the Firm can be prosecuted. Whether the notice was served on the petitioner or not, is a matter of fact, that can be decided only during trial before the trial court and the same cannot be decided in this petition. Hence, this criminal original petition is liable to be dismissed.

4. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and perused the materials available on record.

5.Originally, in the private complaint, the petitioner has been shown as partner of M/s.F.J.SKID PACKS, whereas the petitioner has produced the Deed of Partnership Firm, in which the petitioner has not been shown as a partner. On the otherhand, the respondent/complainant has not produced any partnership deed to show that the petitioner is also one of the partners in the said Firm. Except the averments made in the complaint, the respondent has not produced any material to show that the petitioner has actively participated in the day-to-day affairs of the Firm.

6. Admittedly the petitioner is not the Signatory of the disputed cheque. In the absence of the Signatory of the cheque and also there is no proof to show that the petitioner is also the partner/one of the



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partners in the partnership firm, the petitioner need not face the trial.

On a perusal of the records, it is seen that there is no prima facie material available to show that the petitioner has issued the disputed cheque and the petitioner is a partner to the partnership firm.

7. Under the above facts and circumstances, proceedings in C.C.No.1156 of 2021 on the file of the Fast Track Court No.III, Saidapet, Chennai as against the petitioner is hereby quashed. Hence, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

30.01.2025

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No



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To

The Fast Track Court No.III, Saidapet, Chennai.



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P.VELMURUGAN, J.

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