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Crl.O.P.Nos.32141, 32142 & 32143 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2025

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.Nos.32141, 32142 & 32143 of 2024

and

Crl.M.P.Nos.18341, 18342 & 18362 of 2024

1. M/s.F.Robin Power Solutions Pvt. Ltd.,
Rep. by its Directors / Managing Director,
Having office at 6/192 SF No.401/3A1,
Kombaipati Village main road,
Chinnupatti, Reddiyapatti Post, Dindigul - 624 202.
2. Raju Stella,
Director of M/s.F.Robin Power Solutions Pvt. Ltd.,
No.6/192 main road,
Chinnupatti, Vattalagundu
Dindigul, Tamilnadu - 624 202.
3. Francis Herson
Director M/s. F.Robin Power Solutions Pvt. Ltd.,
No.6/192 Church Street,
Chinnupatti, Batlagundu,
Dindigul, Tamilnadu - 624 202.
4. Francis Pearlin,
Director M/s.F.Robin Power Solutions Pvt. Ltd.,
No.6/192, main road,
Chinnupatti, Reddiyapatti Post,
Batlagundu, Dindigul - 624 202. ... Petitioners in all Crl.O.Ps



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Vs

Divyash K Jain
POA Holder of
M/s.S.C.Shah Corporation,
No.57, Ormes Road, Kilpauk,
Chennai - 600 010.

... Respondent in Crl.O.P.No. 32141 of 2024

Divyash K. Jain
POA Holder of
M/s.Sree Kesariya Investment,
No.30 Thrupalli Street, Sowcarpet,
Chennai.- 79

... Respondent in Crl.O.P.No.32142 of 2024

Rathna Bai Jain
Represented by its POA Holder,
Divyash K.Jain,
No.156, Mint Street, Sowcarpet,
Chennai – 79. ... Respondent in Crl.O.P.No.32143 of 2024

COMMON PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., and 528 of BNSS Act, pleaded to quash the complaint against the petitioners 2 to 4 herein, in S.T.C.Nos.1838/2024, 1836/2024 and 1837/2024 pending on the file of FTC-IV, Metropolitan Magistrate, George Town, Chennai.



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In all Crl.O.Ps.
For Petitioners : Mr.E.Senthil Kumar

For Respondent : Mr.A.Vikash for
Mr.Srenik.S.Jain

COMMON ORDER

The Criminal Original Petitions have been filed to quash the complaints made against the petitioners 2 to 4 herein, in S.T.C.Nos.1838/2024, 1836/2024 and 1837/2024 pending on the file of FTC-IV, Metropolitan Magistrate, George Town, Chennai.

2. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the Respondent and perused the materials available on record.

3. The learned counsel for the petitioners submitted that the petitioners are only the Directors of the company and the alleged loan is not availed by the petitioners herein. The petitioners are not actively participating in day-to-day affairs of the petitioners' company. Hence,



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the petitioners prayed to quash the respective cases filed against them.

Further, he submitted that the respondent/complaint has not made any averments that the petitioners are actively participated in the day-to-day affairs of the company. Hence, the petitioners prayed for quashing the private complaints filed against them.

4. Learned counsel for the petitioners in support of his contentions, has placed reliance on the following judgements of the Hon'ble Supreme Court of India.

i. Crl.A.No.879 of 2023 [Ashok Shewakramani and others Vs. State of Andhra Pradesh]

ii. Special Leave Petition (Criminal No.12390-12391 of 2022) [Susela Padmavathy Amma Vs. M/s.Mharti Airtel Limited and the order of Delhi Court made in Crl.M.C.No.1219 of 2020 and Cr.M.A.No.4723 of 2020 [Preeti Vs. State and another]



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5. Admittedly, the petitioners have not received the notice. The respondent filed the complaint against the petitioners herein with the returned cover, through which notices were sent to the petitioners returned with an endorsement “ door locked”. The cheque was issued in the name of the company. The authorised signatory had signed the cheque on behalf of the company. The petitioners have not produced any resolution of the Directors of the company that the petitioners herein are only the Directors of the Company and they have not participated in day-to-day affairs of the company . In the absence of the same, the complaint cannot be quashed. The grounds taken by the petitioners are matter of defence, which would be decided only during trial/enquiry. Whether the petitioners are actively participating in the day-to-day affairs of the company or not, to be decided only during trial, not at this stage.

6. In the citations referred by the learned counsel for the petitioner, it is seen that the convicted accused filed an appeal. Whereas, in this case, the matter is not yet reached the stage of trial. The citations referred by the learned counsel for the petitioners are not applicable to the case on hand.



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7. In view of the same, the Criminal Original Petitions are dismissed. Consequently, connected miscellaneous petitions are closed. The petitioners are at liberty to take all their defence before the trial court during trial/enquiry.

23.01.2025

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

The Metropolitan Magistrate, FTC-IV, George Town, Chennai.



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P.VELMURUGAN, J.

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