

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2021

CORAM

THE HON'BLE MS. JUSTICE R.N.MANJULA

Crl.O.P.No.8302 of 2019 and Crl.M.P.Nos.4441 & 4442 of 2019

H.S.Suri
Authorized Signatory
M/s. Genuine Car Accessories,
Old No.21, New No.67,
Ground Floor,
Habibullah Road,
T.Nagar,
Chennai - 600017.

... Petitioner/Accused

Vs.

M/s. Kun Auto Company Pvt. Ltd., Rep. by its Authorized Signatory, Mr.J.Panneerselvam Credit Controller, No.D-5, Ambattur Industrial Estate, Ambattur, Chennai - 600058.

... Respondent/Complainant

Prayer:- This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records and quash the complaint in C.C.No.922 of 2017, on the file of the learned Fast Track Court - I (Metropolitan Magistrate), Egmore, Chennai.

For Petitioner : Mr.Prakash Goklaney
For Respondent : Mr.V.Palani Kumar

ORDER

This Criminal Original Petition is filed calling for the records and quashing the complaint in C.C.No.922 of 2017 on the file of the learned Fast Track Court – I (Metropolitan Magistrate), Egmore, Chennai.

- 2. This is a case arising out of dishonor of cheque issued by the petitioner on behalf of the Company namely Genuine Car Accessories. The respondent filed a private complaint under Section 138 of Negotiable Instruments (N.I.) Act by alleging that the petitioner is the authorized signatory of the Company and he has a criminal liability to face the proceedings under Section 138 of N.I. Act for the cheque got dishonored due to insufficient funds.
- 3. The learned counsel for the petitioner would submit https://hcservicesterautrs.gov/hr/cspr/edes/tioner has signed the cheque only on behalf of

the Company but the respondent did not issue any statutory notice to the Company before filing the complaint under Section 138 of N.I. Act.

- 4. For cheques issued on behalf of the Company by its authorised signatories, the Company alone is vicariously liable. Under such circumstances, a statutory legal notice ought to have been sent to the Company and the legal mandate in this regard ought to have been complied by the respondent filing the complaint. Though the Company is represented by its directors or other persons in charge in the affairs of the Company, the Company itself is a juristic Hence, the pre-complaint notice should have been person. The learned counsel for the served on the Company also. petitioner relied on the decisions of the Hon'ble Supreme Court held in 'Aneeta Hada Vs. Godfather Travels & Tours (P) reported in 2012 5 SCC 661 and 'Himanshu Vs. B.Shivamurthy & Anr.' reported in 2019 (3) SCC 797.
 - 5. The position of law on this point is well settled and for the omission of serving a statutory notice on the Company is a ground to quash the proceedings. For the reasons stated above, I feel that it is appropriate to invoke the inherent jurisdiction of this Court under Section 482 Cr.P.C., to quash the proceedings pending before the trial Court.

In the result, this Criminal Original Petition is allowed and the proceedings in C.C.No.922 of 2017 pending on the file of the learned Fast Track Court - I (Metropolitan Magistrate), Egmore, Chennai, is quashed. The respondent is at liberty to take appropriate civil action before the appropriate forum for the cause of action if any he has got against the petitioner. Connected criminal miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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То

The Fast Track Court - I (Metropolitan Magistrate), Egmore, Chennai.

+2ccs to Mr.Prakash Goklaney, Advocate SR. No.56836 +1cc to Mr.V.Palani Kumar, Advocate SR. No.57126

Crl.O.P.No.8302 of 2019

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