Sagayadurai and Others Vs. J.D. Electronics

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Court : Chennai

Decided On : Jan-24-1997

Reported in : 1997(1)ALT(Cri)753; [1999]95CompCas337(Mad); 1997(2)CTC478

Judge : M. Karpagavinayagam, J.

Acts : Negotiable Instruments Act, 1881 - Sections 138 and 141

Appeal No. : Crl. R.C. Nos. 890, 931, 932, 933 and 934 of 1996

Appellant : Sagayadurai and Others

Respondent : J.D. Electronics

Advocate for Def. : N.D. Bahety, Adv.

Advocate for Pet/Ap. : : S. Samuel Rajapandian, Adv.

Judgement :

M. Karpagavinayagam, J.

1. The only question that arises for consideration in all these revisions is whether the manager of a partnership firm could file a complaint in the absence of power of attorney or any authorisation

2. The trial court while considering this point has held that the manager is competent to file the complaint.

3. Ms. T. R. Ramadevi, counsel appearing for the petitioner, contends that the manager can represent a company but, in the instant case, since the manager represents the partnership firm, he cannot be permitted to appear on behalf of the partnership firm in the absence of authorisation.

4. I am afraid this argument cannot hold good in view of the following Explanation (a) to section 141 of the Negotiable Instruments Act which defines company for the purpose of this Act and the said Explanation runs as under :

'Explanation. - For the purpose of this section, -

(a) 'company' means any body corporate and includes a firm or other association of individuals.'

5. From this provision, it is clear that the court is empowered to take cognizance if the complaint is preferred by the firm, a company under section 138 of the Negotiable Instruments Act through the manager of the company.

6. The definition of 'company' under the Negotiable Instruments Act indicates any body corporate including a firm which indicates that the company as such has to be represented by some human agency in preferring a complaint before the court. The company, though it is a legal entity, does not have a soul, mind, body and limbs to walk to the court for preference of a complaint. The dictates of common sense, practical wisdom, prudence and experience impel the court in such a situation to allow the company to present a complaint before the court represented by some person connected with the affairs of the company. The person connected with the affairs of the firm, the company, in the normal run of things, may be either its manager, partner, managing partner or director or any other person authorised by the company. In this case, there is no dispute that the complainant is a manager representing their company which is a firm. Furthermore, it is quite clear that the complainant being a manager, on behalf of the firm has signed in some of the documents such as agreements in which the accused is one of the parties and these documents have been filed along with the complaint before the court. All these things would go to show that the manager/complainant is very well connected with the affairs of the partnership firm on whose behalf the complaint

has been made. In these circumstances, it cannot be stated that the manager representing the company shall obtain a special permission or authorisation from the company and file it along with the complaint.

7. This view has been expressed in the judgment of this court in Gopalakrishna Trading Co. v. D. Baskaran [1994] 80 Comp Cas 53; [1992] 3 Cri 1094. Therefore, I do not find any infirmity in the orders passed by the trial court dismissing the petitions to discharge.

8. In the result, all these revisions which have no merits are dismissed. The trial court is directed to dispose of the cases as early as possible.