

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.08.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.20026 of 2015

and M.P. No.1 of 2015

1.M/s.A.P.Thomas

Rep. by its Managing Partner
A.T.Francis, aged about 58 years
No.67, Cutchery Street, Erode-1.

2.A.T.Francis

3.A.T.Louis

...

Petitioner

Vs

Small Industries Development Bank of India [SIDBI]

Rep. by its Authorised Representative,
T.Gulasekaran

S/o.T.T.Thirunavukarasu,
Om Tower, No.10/3, Nalli Hospital Road,
Annamalai Layout, Erode-11.

...

Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C.,
praying to call for the records amended in CC.No.1567 of 2008 on the
file of the Judicial Magistrate No.1, Erode and quash the same.

For Petitioner :Mr.V.Kadhirvelu

ORDER

This Criminal Original Petition has been filed praying to call
for the records amended in CC.No.1567 of 2008 on the file of the
Judicial Magistrate No.1, Erode and quash the same.

2. Heard Mr.V.Kadhirvelu, the learned counsel for the
petitioner.

3. It is the case that the petitioners have borrowed loan from
SIDBI and had issued certain cheques, which were dishonoured,
following which, SIDBI had lodged the present prosecution against the
petitioners for offence under Section 138 of Negotiable Instrument
Act.

4. The learned counsel for the petitioners submits that the impugned cheques were issued as security to SIDBI, which they have misused. The Hon'ble Supreme Court in S.Krishnamoorthy Vs. Chellammal [2015 (4) Scale 371] has held that this Court under Section 482 Cr.P.C., cannot not go into the disputed question of fact, in a prosecution under Section 138 of Negotiable Instrument Act.

5. Hence, this Criminal Original Petition is dismissed with liberty to the petitioner to raise all the points before the Trial Court. Consequently, connected miscellaneous petition is also dismissed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

ds

To,

1.The Judicial Magistrate-I
Erode.

+1 cc to Mr.V.KadhirVelu, Advocte sr.42003/15

Cr1.OP No.20026 of 2015

सत्यमेव जयते

ca (co)
aa04/09/2015

WEB COPY