

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2015

CORAM

THE HON'BLE MR.JUSTICE R.S.RAMANATHAN

Crl.O.P.No.5545 of 2015

M/s.Udawat Agro Foods,
Partnership firm represented by its Manager,
A.Sivasamy,
S/o.Ayyasamy,
Pudupalayam, Deenampalayam Post,
Thondamuthur via, Coimbatore - 109.
Petitioner/Complainant

vs.

1.Naren Industries,
represented by its proprietrix,
Sri Vidhya,
W/o.V.Varadharaj,
No.1, Poolankinaru, Pollachi Road,
Coimbatore.

2.Sri Vidhya,
W/o.V.Varadharaj,
Proprietor of M/s.Naren Industries,
No.1, Poolankinaru, Pollachi Road,
Udumalpet, Tirupur Taluk.

3.V.Varadharaj,
S/o.Veerasamy,
M/s.Naren Industries,
No.1, Poolankinaru, Pollachi Road,
Udumalpet, Tirupur Taluk.Respondents/Accused

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to direct the learned Judicial Magistrate I, Udumalpet, to receive and accept the case bundles in C.C.No.290 of 2014 on the file of learned Fast Track Court II, Coimbatore, from the petitioner and try the case in accordance with law within a time frame.

For Petitioner : Mr.V.Vijayakumar

O R D E R

The petitioner filed a complaint before learned Judicial Magistrate VI, Coimbatore, against the respondents under section 138 of the Negotiable Instruments Act and the learned Judicial Magistrate enquired the case, recorded the sworn statement of the petitioner and took the case on file as C.C.No.163 of 2014. After issuing summon to the accused, on 17.06.2014, the case was transferred to the file of Fast Track Court II, Magistrate Level, Coimbatore and renumbered as C.C.No.290 of 2014. Thereafter, the learned Judicial Magistrate, Fast Track Court II, Coimbatore, returned the papers to the petitioner by order dated 01.12.2014 on the basis of the judgment of the Honourable Supreme Court in Dashrath Rupsingh Rathod vs. State of Maharashtra and another [2014 (3) MLJ (Crl) 475 (SC)] : 2014 (4) CTC 666 on the ground that the cheque was drawn on Indian Bank, Udumalpet Branch and therefore, the case has to be filed only before the learned Judicial Magistrate I, Udumalpet. Thereafter, the petitioner represented the papers before learned Judicial Magistrate I, Udumalpet and the learned Judicial Magistrate I, Udumalpet, returned the papers by order dated 24.12.2014 relying upon the judgment of the Full Bench of this Court in Mahender Goyal vs. Kadamba International [2014 (1) CTC 1] stating that the procedure contemplated in the said judgment was not followed and the Court fee paid was not proper and returned the papers. Thereafter, the petitioner represented the papers to the learned Judicial Magistrate VI, Coimbatore, and the same was returned by such Court stating that it has no jurisdiction to entertain the case. As per the order of learned Judicial Magistrate I, Udumalpet, the petitioner has to rectify the defects and submit before such Court. Thereafter, he represented the papers before learned Judicial Magistrate I, Udumalpet and by order dated 06.02.2015, the learned Judicial Magistrate, returned the papers stating that previous return not complied with and fresh docket is to be attached. In this circumstances, this petition is filed seeking a direction to the learned Judicial Magistrate I, Udumalpet, to receive and accept the case bundle in C.C.No.290 of 2014 on the file of learned Judicial Magistrate, Fast Track Court II, Magistrate Level, Coimbatore, from the petitioner and try the case in accordance with law.

2. Heard the learned counsel for the petitioner.

3. It is unfortunate that a litigant has been shuttled between the Courts by the learned Judicial Magistrate I, Udumalpet, without properly appreciating the judgment of the Honourable Apex Court reported in 2014 (3) MLJ (Crl) 475 (SC) : 2014 (4) CTC 666 and the Full Bench judgment of this Court

reported in 2014 (1) CTC 1. As per the judgment of the Honourable Supreme Court (cited supra), in respect of cheque dishonour cases, the Court within whose jurisdiction the cheque was drawn and dishonoured has got the jurisdiction and when the cases are presented before other Courts the cases are directed to be given to the complainant for presentation before proper Court. In compliance with the direction of the Honourable Supreme Court in the above decision, the learned Judicial Magistrate, Fast Track Court II, Coimbatore, returned the entire case bundle to the petitioner by order dated 01.12.2014 for being presented before the proper Court viz., Judicial Magistrate I, Udumalpet. As per the decision of the Full Bench of this Court (cited supra), the originals of the complaint and annexures filed therewith and also certified copy of the record of proceedings under section 202 Cr.P.C., if any, should be handed over to the complainant towards presentation before the proper Court when the Court where the complaint was presented has no jurisdiction. Though certain other guidelines are also prescribed in the said judgment, in the instant case, the complaint and annexures were returned to the petitioner by the learned Judicial Magistrate, Fast Track Court II, Coimbatore, following the judgment of the Honourable Supreme Court for being presented before the proper Court and hence, the petitioner has to present the case bundle along with annexures before the proper Court. After presentation, the Court which got jurisdiction cannot refuse to take the case on file on the ground that other directions given in the Full Bench judgment were not complied with.

4. It is submitted by the learned counsel for the petitioner that though the petitioner has affixed the requisite Adhesive Stamps in the complaint, those stamps were not defaced by the learned Judicial Magistrate VI, Coimbatore and the petitioner cannot be blamed for that. Therefore, learned counsel submitted that the petitioner has complied with the direction of learned Judicial Magistrate, Fast Track Court II, Coimbatore and the learned Judicial Magistrate I, Udumalpet, refused to take the complaint on file.

Considering the submissions and the judgments of the Honourable Supreme Court and the Full Bench of this Court (cited supra), this Criminal Original Petition is allowed. The learned Judicial Magistrate I, Udumalpet, is directed to receive the case bundle in C.C.No.290 of 2014 on the file of learned Judicial Magistrate, Fast Track Court II, Magistrate Level, Coimbatore,

produced by the petitioner, number the same, issue process to the accused and deal with the case in accordance with law.

Sd/-
Asst.Registrar

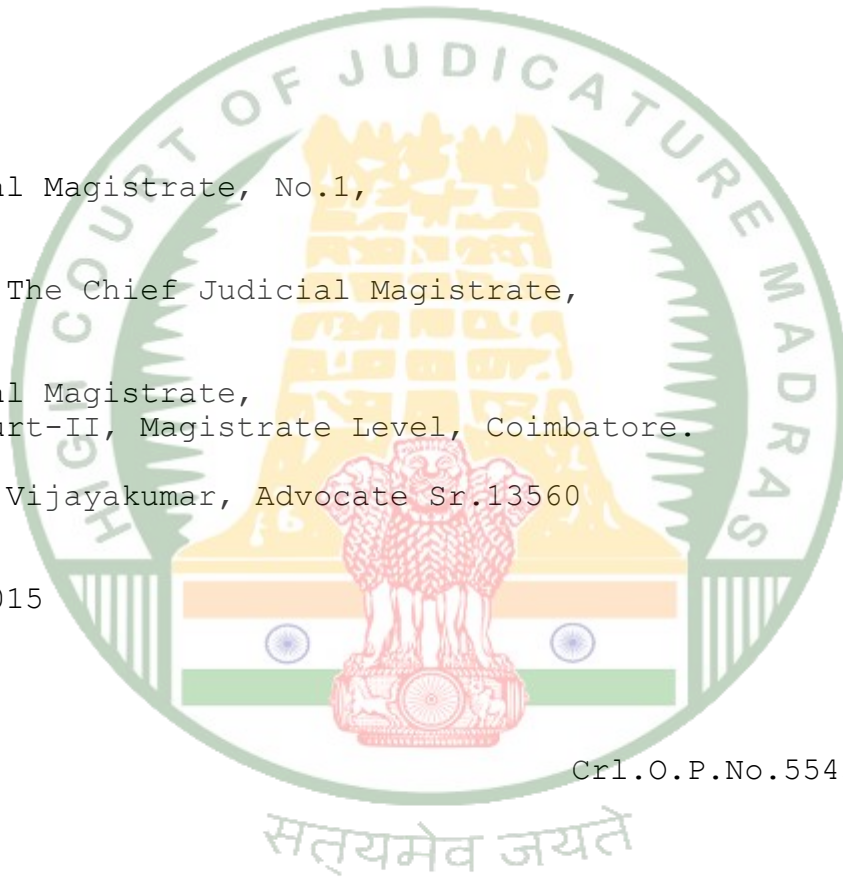
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Sub Asst. Registrar

gm
To

1. The Judicial Magistrate, No.1,
Udumalpet.
 2. -do- Thro' The Chief Judicial Magistrate,
Coimbatore.
 3. The Judicial Magistrate,
Fast Track Court-II, Magistrate Level, Coimbatore.
- +1 CC to Mr.V.Vijayakumar, Advocate Sr.13560

CO-BVR
ths : 20.03.2015



Cr1.O.P.No.5545 of 2015

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