

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.5884 of 2015

M/s.Sree Gokulam Chits & Finance Co.(P) Limited,
represented by its Power Agent,
Harikrishnan
S/o.Ramaswamy
307, Seventh Street Corner,
Gokulam Towers,
100 Feet Road,
Gandhipuram,
Coimbatore - 12.

...Petitioner/Complainant

vs.

K.Krishnaraj
S/o.M.Muthusamy

...Respondent/Accused

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to direct the learned Judicial Magistrate, Pollachi, or the learned Judicial Magistrate, Udumalpet, to entertain the complaint in C.C.No.771 of 2013 returned vide order dated 10.12.2014 by learned Judicial Magistrate, Fast Track Court I, Magisterial Level, Coimbatore.

For Petitioner : Mr.L.Rajasekar

O R D E R

This petition is filed seeking for a direction to set aside the order passed by learned Judicial Magistrate, Fast Track Court I, Magisterial Level, Coimbatore, dated 10.12.2014, made in C.C.No.771 of 2013 by which the case papers in such case was returned by the learned Judicial Magistrate for being presented before the proper Court.

2. Heard learned counsel for the petitioner.

3. It is submitted by learned counsel for petitioner that originally the petitioner filed C.C.No.1005 of 2010 on the file of learned Judicial Magistrate II, Coimbatore, against the respondent under section 138 of the Negotiable Instruments Act and in that case trial commenced and PW-1 was examined in chief on 02.06.2011 and

through him, ten exhibits were marked viz., Exs.P1 to P10. PW-1 was not cross-examined and at that stage, the case was transferred to learned Judicial Magistrate I, Fast Track Court, Magisterial Level, Coimbatore and numbered as C.C.No.771 of 2013. While so, the learned Magistrate I, Fast Track Court, Magisterial Level, Coimbatore, relying on the judgment of the Honourable Supreme Court in Dashrath Rupsingh Rathod vs. State of Maharashtra and another [2014 (3) MLJ (Cr1) 475 (SC)], passed the impugned order stating that one cheque was drawn on Union Bank of India, Pollachi and another cheque was drawn on ICICI Bank, Udumalpet Branch, and therefore, the Coimbatore Court has no jurisdiction and returned the complaint to the petitioner for being presented before the proper Court.

4. Learned counsel for the petitioner submitted that the learned Magistrate I, Fast Track Court, Magisterial Level, Coimbatore, without properly appreciating the judgment of the Honourable Supreme Court and without appreciating the fact that trial has commenced ought not to have returned the complaint to be presented before proper Court and the Honourable Supreme Court, in the decision referred to above, has held that once trial has commenced, the same Court can deal with the bundle and dispose of the case. Learned counsel also produced the entire case bundle which was returned to him for the perusal of the Court.

5. I have gone through the case bundle produced by the learned counsel for petitioner and as stated supra in C.C.No.1005 of 2010 on the file of learned Judicial Magistrate II, Coimbatore, PW-1 was examined and Exs.P1 to P10 were marked. Thereafter, the case was transferred to learned Judicial Magistrate, Fast Track Court I, Magisterial Level, Coimbatore. Though the Honourable Supreme Court, in the judgment (cited supra), has held that the case has to be presented within the jurisdiction of the Court where the cheque was dishonoured, the Honourable Supreme Court also took into consideration the pending cases where evidence had already taken and held that where recording evidence has commenced as envisaged in Section 145(2) of the Negotiable Instruments Act the proceedings shall continue at the same place and in such cases, the case need not be transferred. The said position is made clear in paragraph No.20 of the judgment. In this case, the evidence has commenced by examining PW-1 and therefore, there is no need for the learned Judicial Magistrate to transfer the case to another Court and the learned Judicial Magistrate can retain the case and dispose of the case on merits.

This Criminal Original Petition is allowed and the order of learned Judicial Magistrate I, Fast Track Court, Magisterial Level, Coimbatore, dated 10.12.2014, is set aside and the learned Judicial Magistrate is directed to retain the case in C.C.No.771 of 2013 on his file, issue notice to the respondent/accused and dispose of the

case within a period of four months from the date of receipt of a copy of this order. The petitioner is also directed to represent the entire case bundle along with a copy of this order to the Judicial Magistrate I, Fast Track Court, Magisterial Level, Coimbatore, for taking further action.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

gm

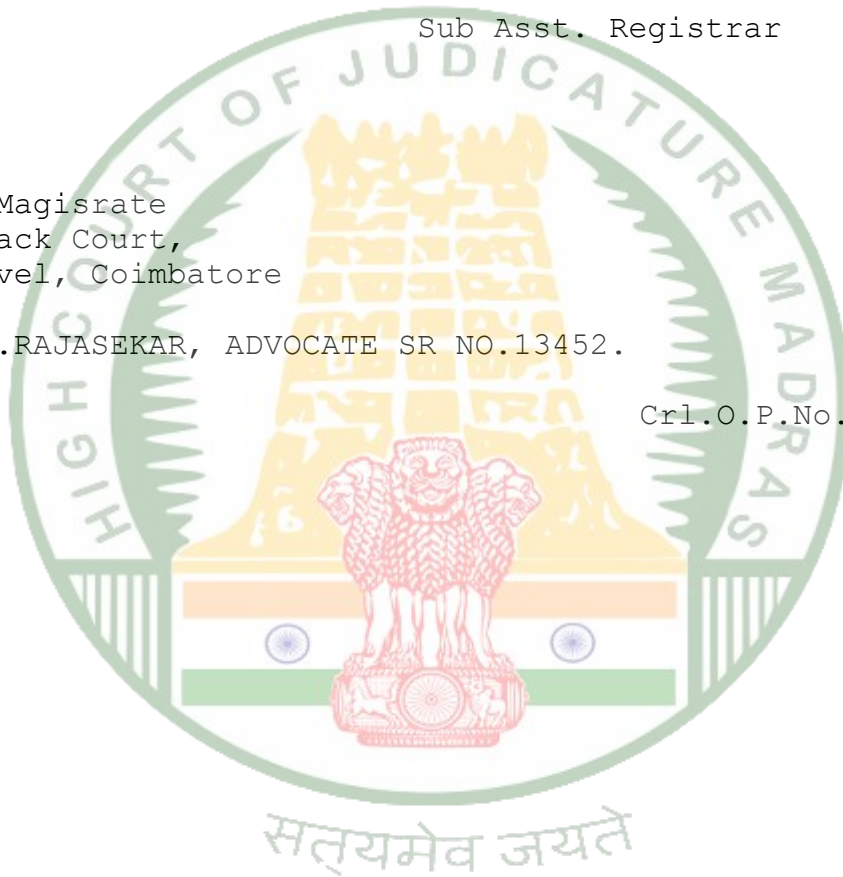
TO

The Judicial Magistrate
No.I, Fast Track Court,
Magistrate level, Coimbatore

+1 cc to Mr.L.RAJASEKAR, ADVOCATE SR NO.13452.

Cr1.O.P.No.5884 of 2015

VGI[CO]
RD 20/03/2015



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