

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.S.RAMANATHAN

Crl.O.P. No.26485 of 2010

and

M.P.No.1 of 2010

Mohamed Kasim

... Petitioner

vs.

T.Tamilselvi

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for the records pertaining to the Criminal Proceedings in STC No.1103 of 2010 on the file of the Judicial Magistrate No.1, Tirupur and quash the same.

For Petitioner : Mr.N.Manokaran

O R D E R

The petitioner is the accused in S.T.C.No.1103 of 2010 on the file of the Judicial Magistrate No.I, Tiruppur.

2. The respondent/complainant filed the above complaint under section 138 of the Negotiable Instruments Act stating that she invested Rs.1 lakh in the accused company in August 2009 and the accused issued six post dated cheques for various amounts and when presented for collection, two cheques bearing Nos.008635 and 008637 were dishonoured. Therefore, notice was issued and complaint was filed as the petitioner failed to pay the amount.

3. It is submitted by the learned counsel for the petitioner that the cheque was returned on 20.1.2010 as per the date given in the complaint. On 19.4.2010, the husband of the complainant who also presented the complaint as power agent of the complainant issued a receipt stating that he received Rs.1,95,000/- from the petitioner/accused and also returning the cheque issued by the petitioner/accused and stated that he would not make any claim. The learned counsel also submitted that on the same day, a letter was issued by the complainant, T.Tamilselvi, authorising R.Thiruvengadam, husband of the complainant to receive the amount from the petitioner. Therefore, as per the receipt issued by the power agent of the respondent/complainant dated 19.4.2010, the entire amount was received and no amount was liable to be paid by the petitioner and

therefore, the petition is liable to be allowed.

4. I am unable to accept the contention of the learned counsel for the petitioner. It is seen from the complaint that the respondent issued five cheques and three cheques were honoured and two cheques bearing Nos.008635 and 008637 were dishonoured and therefore, the complaint was lodged after complying with the statutory formalities. In page 5 of the typed set of papers, the petitioner produced receipt sent by R.Thiruvengadam for having received Rs.1,95,000/- and it is stated therein that he deposited a sum of Rs.1,95,000/- in the petitioner company and he received the amount. In page 7, in the authorisation given by the complainant and others authorising R.Thiruvengadam to receive the amount, no amount has been mentioned. Therefore, it cannot be presumed that cheque amount was received by the husband of the complainant who was also the power agent of the complainant. According to me, all these aspects have to be gone into by the trial court and this Court cannot go into those aspects at this stage. Hence, the petition is dismissed. The connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

asvm

To

The Judicial Magistrate No.1,
Tirupur.

1 cc to Mr.N.Manokaran , Advocate Sr.No.27276/15

CRL.O.P. No.26485 of 2010
and
M.P.Nos.1 and 2 of 2010

AD(CO)

PMK.24.6.2015

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