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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.08.2015

CORAM

THE HONOURABLE MS.JUSTICE R.MALA

Cr1.O.P(MD)No.10202 of 2015

and

M.P. (MD) .Nos.1 and 2 of 2015

P.K.Rajkumar

... Petitioner

Vs.

S.Suthir

... Respondent

Prayer: Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the complaint in C.C.No.24 of 2014 on the file of the Fast Track Judge cum Judicial Magistrate Level, Palani and quash the same.

For Petitioner ... Mr.V.Sitharanjandas

For Respondent ... Mr.R.Jegadeeswaran

ORDER

The petitioner has come forward with this petition to quash the C.C.No.24 of 2014 on the file of the Fast Track Judge cum Judicial Magistrate Level, Palani.

2.Heard the learned counsel for the petitioner and the learned counsel for the respondent.

3.The respondent herein is a complainant and he has preferred a complaint under Sections 138 and 142 of Negotiable Instrument Act, 1881 as amended under Amendment and Miscellaneous Provisions Act, 2002 stating that he received Cheque dated 19.12.2013 that has to be presented on or before 19.03.2014 whereas, it has been presented on 25.03.2015. He further submitted that as per the notification of Reserve Bank of India and Section 138(a) of Negotiable Instrument Act, it is barred by time and hence, he has come forward with this petition for the aforesaid relief.

4.According to the learned counsel for the respondent at the time of admission, stay has been granted and hence, he filed an application to vacate the stay.

5.Earlier, the matter was posted under the caption 'for orders' and it was adjourned today to verify as to whether the cheque has been presented within the time stipulated under Section 138(a) of Negotiable Instrument Act. It is only a question of law.



6. Section 138(a) of Negotiable Instruments Act reads as follows:

(a) the cheque has been presented to the bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier;

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7. In such circumstances, today, the matter is posted under the caption for orders, the petitioner has filed the complaint in the form of typed set of papers in Page No.19 in which it was specifically mentioned that during the business transaction, cheque has been issued on 19.12.2013 for Rs.33 lakhs that has been presented only on 25.03.2014, which was returned as 'account closed'. Then, after issuance of statutory notice, the complaint has been filed. As per notification issued by the Reserve Bank of India, after 01.04.2012 cheque has to be presented within the period of three months from the date of instrument. Hence, the instrument which is presented on 25.03.2014, is barred.

8. This petition is allowed, which is barred under Section 138(a) of Negotiable Instrument Act and C.C.No.24 of 2014 on the file of the Fast Track Judge cum Judicial Magistrate Level, is quashed. It is left open to the respondent/creditor to approach the appropriate forum for recovery of money on the basis of cheque. Consequently, the connected M.Ps are closed.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To:

1. The Fast Track Judge cum
Judicial Magistrate Level,
Palani.

2. -Do-thro' The Chief Judicial Magistrate
Dindigul.

+1cc to Mr.R.Jegadeeswaran, Advocate Sr.No.47628

+1cc to Mr.V.SITHARANJANDAS, ADVOCATE SR NO.47185

rg/28.08.2015 /2p-5c/

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