

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2016

CORAM :

THE HONOURABLE MS. JUSTICE R.MALA

Crl.O.P.Nos.1829 & 1830 of 2016

and

Crl.M.P.Nos.913, 914, 2039 & 2040 of 2016

N.Rajani .. Petitioner in Crl.O.P.No.1829 of 2016
V.Nagarajan .. Petitioner in Crl.O.P.No.1830 of 2016

Vs.

Gopkumaran Nair
Prop.Pioneer Ine
Rep. by its Power of Attorney Agent
P.Sundaresan,
Accounts Manager .. Respondent in both cases.

Prayer in both cases: Criminal Original Petitions are filed under Section 482 of Cr.P.C., to set aside the order dated 07.01.2016 passed in Crl.M.P.Nos.4822 and 4823 of 2015 in C.C.Nos.158 & 159 of 2015 passed by the Fast Track Court at Alandur.

For Petitioner : Mr.A.Balasinghramanujam

For Respondent : Mr.N.D.Bahety

C O M M O N O R D E R

These petitions have been filed challenging the order dated 07.01.2016 made in Crl.M.P.Nos.4822 and 4823 of 2015 in C.C.Nos.158 & 159 of 2015, on the file of the learned Fast track Judge, Alandur for dissolving the portion.

2.The learned counsel for the petitioners submitted that the petitioners, who are the accused in C.C.Nos.158 & 159 of 2015 have filed an application under Section 91 of Cr.P.C. for production of documents to prove their defence, wherein the trial court has ordered only the rental and lease agreements, rental advance amount, cheque particulars, account books and

bank accounts pertaining to the relevant period alone has been allowed. Against which, they have come forward with these petitions. He further submitted that the respondent/complainant, is a tenant under the petitioners/accused from the year 2007 onwards. Even though, the cheque has been issued in the year 2015 for return of advance amount, the petitioners prays for production of other documents also for proving their defence. Hence he prayed for setting aside the order passed by the Trial Court.

3. Resisting the same, the learned counsel for the respondent would submit that it is no doubt, the respondent is a tenant under the petitioners from 2007 to 2014. When the respondent vacated the premises, for return of advance amount, cheque has been issued and when the same has been presented for encasement, that has been returned as "insufficient fund". Hence, statutory notice under Section 138(b) of Negotiable Instrument Act has been issued by the respondent, which was received by the petitioners but they have not complied with the demand. Therefore, the respondent has filed a complaint under Section 138 of Negotiable Instrument Act against the petitioners, for which, the petitioners have sent a reply stating that the cheque has been issued as a security. But the Trial Court has rightly held that only the documents pertaining to the relevant period is necessary. So, the Trial court has considered all the aspects in proper perspective and came to the correct conclusion. Hence, he prayed for dismissal of these petitions.

4. Considered the rival submissions made by both sides and perused the typed set of papers.

5. The tenancy relationship between the petitioners and the respondent is not disputed. After partly allowing the petitions, the respondent was recalled and examined on 20.01.2016 and on the basis of the order passed by the trial Court, the documents were marked as Exs.D1 to D.5. Admittedly, the cheque has been issued in the year 2015, when the tenant/respondent had vacated the premises. According to the petitioners/accused, the cheque has been issued only as a security. It is unable to understand by this Court that once the respondent/tenant had vacated the premises, why the petitioners/landlord have given a cheque as security. In such circumstances, I am of the view that only with view to drag on the proceedings, the petitions have been filed. The Trial Court has partly allowed the petitions stating that the documents pertaining to the relevant period has to be marked. Therefore, the trial court has considered all the aspects in proper perspective and came to the correct conclusion. It is the duty of the petitioners/accused to prove that the cheque has been issued for security purpose. Hence, I do not find any reason

to interfere with the finding of the Trial Court. Therefore, the Criminal original Petitions deserve to be dismissed.

6.In the result, these Criminal Original Petitions are dismissed with cost of Rs.2,500/- (Rupees Two Thousand Five Hundred only) in each petitions to the Legal Services Authority, High Court, Madras. Further, the learned Fast Track Judge, Alandur, is directed to dispose of C.C.Nos.158 & 159 of 2015 within a period of three months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed.

kkd

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Fast Track Court, Alandur.

+ 2 ccs to Mr.A.Balasinghramanujam, Advocate Sr 15216, 15217

+ 1 cc to Mr.N.D.Bahety, Advocate Sr 15685

KR/24/3/16

Cr1.O.P.Nos.1829 & 1830 of 2016
and

Cr1.M.P.Nos.913, 914, 2039 & 2040 of 2016

WEB COPY