



Crl.O.P.No.2449 of 2016

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M.NIRMAL KUMAR.,J.

This petitioner is the accused on the private complaint filed by the respondent under Section 138 of the Negotiable Instruments Act, which is pending in STC.No.606 of 2017 before the Judicial Magistrate Fast Track Court No.I, Erode.

2. The primary contention of the petitioner is that the petitioner was having leather business with the respondent. During course of business the petitioner purchased leather materials to the tune of Rs.14,50,991/- on 06.04.2016 by Invoice No.20. At that time, the cheque bearing No.844386 was drawn on Syndicate Bank, Ranipet Branch, Vellore dated 06.06.2016 for a sum of Rs.14,50,991/- issued. Subsequently, on 16.07.2016 the accused paid a sum of Rs.2,00,000/- through RTGS. Further on 18.07.2016 the said cheque was returned and thereafter, a fresh cheque drawn on Syndicate Bank, Ranipet Branch, Vellore on 18.05.2017 for a sum Rs.12,50,991/-. Subsequent to the



issuance of the cheque, an amount of Rs.1,00,000/- was paid on 06.10.2016.

Further a sum of Rs.2,00,000/- was paid on 21.12.2016 through RTGS. After deduction of these four payments the petitioner is due to pay a sum of Rs.8,50,991/-. Thereafter, the cheque amount of Rs.12,50,991/- was presented whereas the admitted liability is only Rs.8,50,991/-

3. The learned counsel for the petitioner submitted that in order to attract the offence under 138 NI Act the cheque should be drawn for discharging of any liability. The admitted liability is only Rs.8,50,991/- and the cheque impugned in the case is for a sum of Rs.12,50,991/-. Hence compliant not maintainable, to be quashed.

4. In view of the same, the cheque can be drawn for discharge of liability either in full or in part. In support of his contention, the learned counsel for the petitioner relied upon the decision of *Angu Parameswari Textiles (P) Vs. Sri Rajam & Co.* of this Court on 24.1.2021.



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5. The learned counsel for the respondent submits that he seeks small accommodation to file his counter.

6. Post this matter on 14.02.2022.

07.02.2022

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