

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2017

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

Crl.R.C.No.130 of 2015

K.Kajamohideen
S/o.Kachimohideen ... Petitioner / Complainant

Vs.
V.Sudhakaran ... Respondent / Accused

Criminal Revision Case filed under Section 397 and 401 Cr.P.C. against the order of learned XVII Metropolitan Magistrate, Saidapet, Chennai, passed in M.P.No.5411 of 2014 on 19.01.2015.

For Petitioner : Mr.R.Singaravelan, senior counsel
for Ms.M.Srividya

For Respondent : Ms.S.Mythreye

ORDER

This revision arises against the order of learned XVII Metropolitan Magistrate, Saidapet, Chennai, passed in M.P.No.5411 of 2014 on 19.01.2015, dismissing a complaint preferred by petitioner.

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

3. A reading of the complaint informs that the respondent/accused took delivery of a Car belonging to the petitioner and issued cheques towards payment of consideration. On presentation, cheques were dishonoured. Court below has taken a preemptive view that the dispute is of civil nature and petitioner should have moved an action u/s.138 of the Negotiable Instruments Act. In entertaining a complaint, a Court is required to consider whether the allegations therein, if true, would make out offences. In the facts of the present case, the question whether the cheques were issued by the accused towards delivery of the vehicle by

petitioner/complainant and with intent to deceive would be a matter for evidence.

The Criminal Revision Case shall stand allowed. The order of learned XVII Metropolitan Magistrate, Saidapet, Chennai, passed in M.P.No.5411 of 2014 on 19.01.2015, shall stand set aside. Court below is directed to take the complaint on file and proceed in keeping with Chapter XV Cr.P.C. The observations made herein above regards the offence which might stand attracted is only to indicate the erroneous approach adopted by Court below. What offences, if any, stand made out, is a matter for the Court below to decide.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

The XVII Metropolitan Magistrate,
Saidapet, Chennai.

+1cc to Mr.K.Chandra, Advocate SR.No.13291

+1cc to Mr.M.Srividhya, Advocate SR.No.13101

SDR 15.03.2017

Cr1.R.C.No.130 of 2015

सत्यमेव जयते

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