

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2017

(Orders reserved on 26.07.2017)

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.O.P.No.5556 of 2011

and

M.P.No.1 of 2011

S.Palaniandi

... Petitioner/Complainant

.. Vs ..

R.Muralidharan

... Respondent/Accused

**PRAYER:** Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to the order dated 05.10.2010 in S.T.C. No.584 of 2009 on the file of the learned Judicial Magistrate No.I, Namakkal and set aside the same.

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For Petitioner : Mr.D.Shivakumaran

For Respondent : Mr.P.Srinivasan

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**ORDER**

This criminal original petition is filed by the petitioner/complainant under Section 482 of Cr.P.C., seeking to set aside the docket order passed by the learned Judicial Magistrate No.1, Namakkal, in S.T.C. No.584 of 2009, dated 05.10.2010.

2. The brief facts, which are necessary for determination of the case, are as follows:-

The petitioner herein has filed a private complaint before the learned Judicial Magistrate No.1, Namakkal, alleging that the respondent herein has borrowed various amounts on various dates from him and thereafter, the respondent/accused has not remitted the amount and on negotiation, the respondent has agreed to pay a sum of Rs.4,40,000/- and for which, he has issued a cheque bearing No.105870 dated 15.04.2009 and on presentation, the said cheque was bounced and after issuing statutory notice, he has filed the private complaint before the learned Judicial Magistrate No.1, Namakkal.

3. Before proceeding further, it is to be stated that the respondent/accused is residing in East Tambaram, Chennai, and issued the cheque from his bank account maintained at Chennai in ABN Amro Bank and the same was presented by the petitioner/complainant in his bank account maintained at State Bank of India, Perambalur Branch and the same was bounced as stated supra. Thereafter, statutory notice seems to have been issued to the accused from Namakkal and thereafter, based upon the statutory notice, private complaint appears to have been filed before the learned Judicial Magistrate No.1, Namakkal. The said complaint was taken on file as S.T.C.No.584 of 2009.

4. Before the trial Court, the complainant examined himself as P.W.1 and Exs.C.1 to C.5 were marked and 313 questioning was completed on 22.01.2010 and matter was posted for defence evidence and the same was closed on 29.04.2010. After hearing both sides, again the matter was re-opened for further arguments and finally, the arguments of both sides were closed on 01.10.2010 and the matter was posted for judgment on 05.10.2010. However, on 05.10.2010,

relying upon the decision of the Hon'ble Supreme Court reported in **2009 Criminal Law Journal 1109 (M/S. Harman Electronics (P) Ltd. & another vs. M/S. National Panasonic India Ltd)**, the learned Judicial Magistrate No.1, Namakkal, has stated that he is not having territorial jurisdiction and hence, advised the parties to file an appropriate application for transfer of the case to the Court which having competent territorial jurisdiction. Aggrieved by such docket order dated 05.10.2010, the complainant had preferred this petition before this Court.

5. In support of his contention, the learned counsel for the petitioner relied upon the decision of the Hon'ble Supreme Court reported in **(2014) 9 Supreme Court Cases 129 (Dashrath Rupsingh Rathod Vs. State of Maharashtra and another)**.

6. The learned counsel for the petitioner relied upon the observations of the Hon'ble Supreme Court and stated that in respect of cases where trial has already commenced, the Hon'ble Apex Court has clarified that the Court where it was presently pending can proceed with and pronounce the judgment and further held that all

other complaints shall be returned to the complainant for filing the same in the appropriate Court and the learned counsel for the respondent is not in a position to countenance the said argument.

7. In the above cited decision, the Hon'ble Supreme Court has held that the territorial jurisdiction for filing a case of cheque dishonored, complaint is restricted to the Court within whose territorial jurisdiction the offence is committed viz., which is the location where the cheque is dishonored i.e., returned unpaid by the Bank on which it is drawn. Accordingly, taking note of the huge pendency of the cases, the Hon'ble Apex Court has directed that the category of complaint cases where proceedings have gone to the stage of Negotiable Instruments Act or beyond shall be deemed to have been transferred from the Court ordinarily possessing territorial jurisdiction. However, the present Court in which the complaints are pending and trial has already commenced can go on and complete the trial.

8. In the instant case, as observed in the preceding paragraph, after arguments, the matter was posted for judgment and hence, the

observations made by the Hon'ble Supreme Court in the decision cited supra is squarely applicable to the facts of the present case and accordingly, the docket order passed by the learned Judicial Magistrate No.1, Namakkal, in S.T.C.No.584 of 2009, dated 05.10.2010 is liable to be set aside.

9. In the result, this criminal original petition is allowed and the docket order passed by the learned Judicial Magistrate No.1, Namakkal, in S.T.C.No.584 of 2009, dated 05.10.2010 is set aside and the learned Judicial Magistrate No.1, Namakkal, is hereby directed to take the matter for hearing and to proceed and to dispose of the same in accordance with law, after giving due opportunity to both the parties, within a period of twelve weeks from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed.

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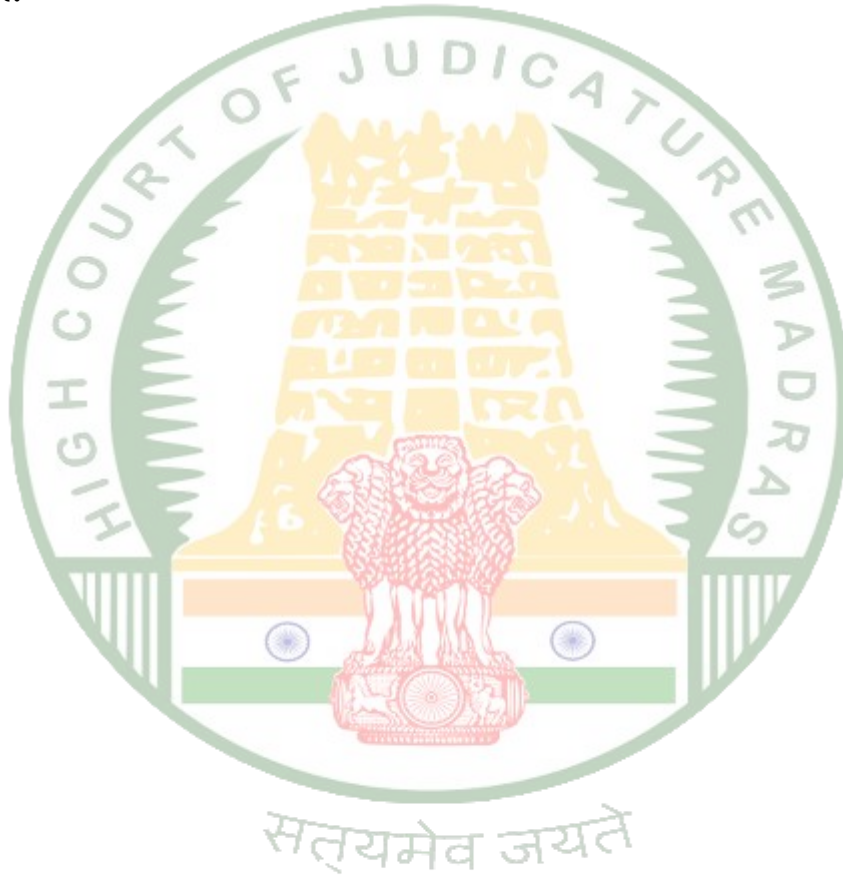
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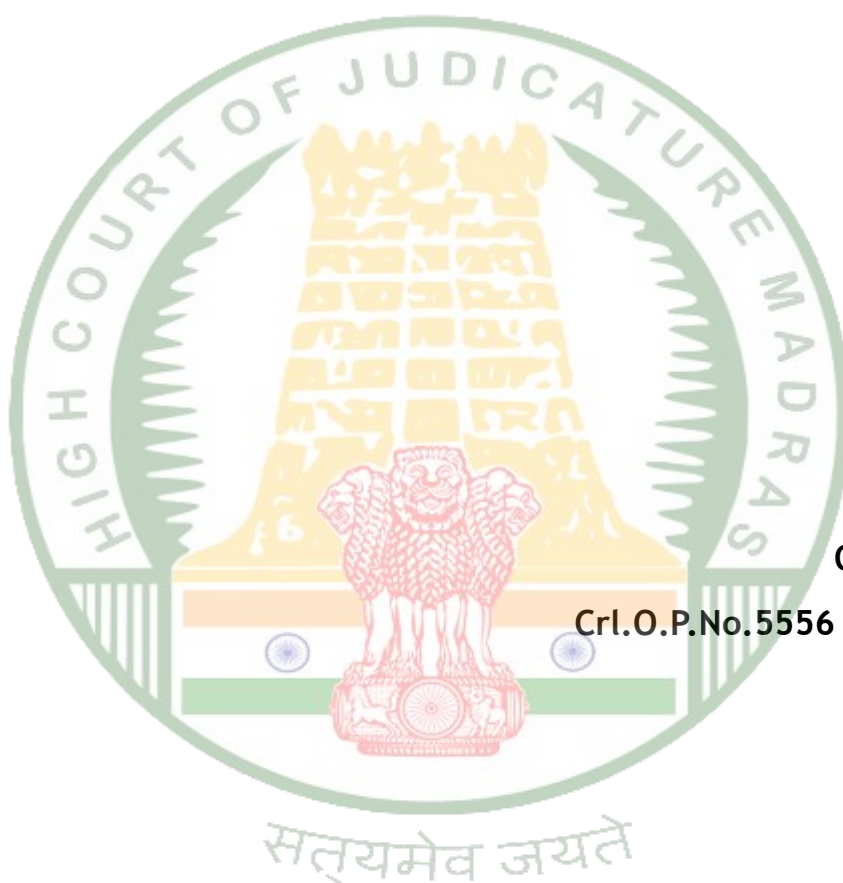
The Judicial Magistrate No.I,  
Namakkal.



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RMT.TEEKAA RAMAN, J.

Jrl



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