

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 10.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR**CRL.OP. (MD) No.13645 of 2017****and****CRL.MP. (MD) Nos.9176 and 9177 of 2017**

1. Daisy Enterprises,
Represented by its Authorized Signatory,
A.Daisy Rani

2. A.Daisi Rani ... Petitioners/Accused No.1 & 2
Vs.
Frozen Fruits & Vegetables,
Represented by its Manager,
B.Vasanth ... Respondent / Complainant

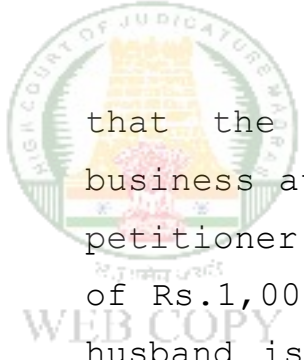
PRAYER: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records relating to the S.T.C.No.25 of 2017 on the file of the Judicial Magistrate Court (Fast Track Court, Magistrate level), Uthamapalayam, Theni District and quash the same.

For Petitioners : Mr.M.Maharaja

ORDER

This Criminal Original Petition is filed to quash the records relating to the S.T.C.No.25 of 2017 on the file of the Judicial Magistrate Court (Fast Track Court, Magistrate level), Uthamapalayam, Theni District.

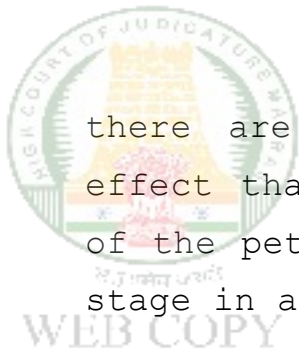
2.The petitioners are accused No.1 and 2 in the said case. The case of the petitioners is that the respondent lodged a criminal complaint for the offence punishable under Section 138 of Negotiable Instruments Act. It is stated by the second petitioner



that the first petitioner company is doing wholesale banana business at Tuticorin. In connection with the business, the second petitioner's husband, namely, Sudhakar issued a cheque for a sum of Rs.1,00,000/- (Rupees one lakh) dated 16.08.2016 and that her husband issued another cheque for a sum of Rs.3,20,000/- (Rupees three lakhs twenty thousand) dated 06.09.2016. When the cheques were presented for collection, it was returned and therefore, the respondent has preferred a complaint after issuing notice and giving statutory period.

3.The learned Counsel for the petitioner in this petition submitted that one of the two cheques was returned by the bank with an endorsement that payment was stopped by the drawer. It is suggested that only if the cheque was returned because of insufficient fund, the complaint can be sustained. Further it is stated that the complaint is liable to be quashed for the simple reason that the entire complaint has been filed with mala fide intention. Except the two grounds, the petitioner has not raised any other legal ground to quash the proceedings.

4.The learned Counsel for the petitioner further submitted that the second cheque for a sum of Rs.3,20,000/- (Rupees three lakhs twenty thousand only) was misplaced by the petitioner and that he has given a complaint regarding missing of cheque. It is further stated that the complaint itself is filed with a forged cheque, the same cannot be entertained and that the criminal complainant is therefore liable to quashed. This Court is not able to appreciate the factual contention of the petitioner that the second cheque for a sum of Rs.3,20,000/- (Rupees three lakhs twenty thousand) is forged. The petition, does not indicate such a stand. The new ground appears to be an after thought, so as to impress the Court for getting neither order. Even otherwise assuming that the respondent's complaint is that the complaint was on the basis of a forged cheque, which was misplaced by the petitioner and that



there are allegations against the de-facto complainant to the effect that the cheque was presented after forging the signature of the petitioner or otherwise the same cannot be considered at this stage in a petition for quashing the criminal complaint.

5. Since the truth or otherwise of the complaint cannot be considered at this stage and it is a matter for evidence, this Court is not able to appreciate the submission of the learned counsel for the petitioners. There is no legal ground or any factual circumstances to establish that it will be an abuse of process of law to allow the criminal complaint being pursued against the petitioners. Hence the Criminal Original Petition is dismissed. Consequently the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(P & A)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate (Fast Track Court magistrate level)
Uthamapalayam, Theni District.
2. - Do - thro 'The Chief Judicial Magistrate,
Theni District.

CRL.OP.(MD) No.13645 of 2017
10.10.2017

cmr
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