



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 06.02.2017
CORAM

WEB COPY

THE HON'BLE MR.JUSTICE R.SUBBIAH

Cr1.O.P.(MD) No.3400 of 2011
and
M.P.(MD).No.1 of 2011

S.Alagarswami

... Petitioner/Accused

-vs-

T.R.Govinthan

... Respondent/
complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the records in S.T.C.No.314 of 2008 pending on the file of the learned Judicial Magistrate No.IV, Madurai and quash the same.

For Petitioner : Mr.I.Iurlappan

For respondent : Mr.J.S.Murali

O R D E R

This criminal original petition has been filed seeking to quash the proceedings in S.T.C.No.314 of 2008 on the file of the learned Judicial Magistrate No.IV, Madurai.

2.The respondent herein has lodged a complaint under Sections 138 and 142 of the Negotiable Instruments Act before the learned Judicial Magistrate No.IV, Madurai stating that he has sold his factory to the petitioner herein for a sum of Rs.20 lakhs, for which the petitioner has given a cheque bearing No.972722, dated 22.03.2008, drawn on ICICI Bank Limited, Dindigul Branch in favour of the respondent. When the respondent presented the same for collection in Canara bank on 22.03.2008, the same has been returned by the Bank with an endorsement "account closed". Even after receipt of legal notice dated 06.04.2008, the petitioner did not pay the money. Hence, he has come up with this complaint.



3.The learned counsel for the petitioner submitted that he has not served with any statutory notice as per the mandatory procedure and therefore, the entire case is liable to be quashed.

4.The learned counsel for the respondent submitted that the respondent had sent a legal notice dated 06.04.2008 to the petitioner herein and the same has been served with and therefore, interference of this Court is not warranted.

5.In my considered view, whether a statutory notice has been served to the petitioner or not is purely a matter of evidence and the same cannot be gone into by this Court. Hence, this criminal original petition is dismissed with liberty to the petitioner to raise all the grounds raised in this petitions before the trial Court. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CSIII)

/True Copy/

Sub-Assistant Registrar

To

The Judicial Magistrate No.IV,
Madurai.

+One cc to Mr.G.R.Swaminathan, Advocate, SR.No.6705

+One cc to Mr.J.S.Murali, Advocate, SR.No.6497

gcg
RL/4C/2P/MR/SAR3/5.4.2017

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