



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 08.08.2017

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

CrI.R.C (MD) .No.709 of 2013

WEB COPY

Chandran

... Petitioner/Complainant
-Vs-

J.Balasubramanian

... Respondent/Accused

Prayer : Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, praying this Court to call for the records in Cr.M.P.No.3059 of 2013, dated 6.6.2013, on the file of Judicial Magistrate, Nanguneri and to set aside the same.

For Petitioner : M/s.D.Venkatesh

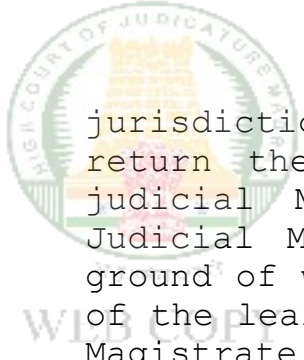
For Respondent : No appearance

O R D E R

Challenging the dismissal order of the Petitioner's complaint on the ground of territorial jurisdiction, the present revision has been filed.

2.The Petitioner has filed a private complaint under Section 138 of Negotiable Instruments Act on the ground that the respondent herein has borrowed a sum of Rs.10 lakhs and in order to discharge his liability, he issued a cheque drawn on Syndicate Bank, K.K.Nagar, Chennai and when the same was presented for collection to the account maintained by him in State Bank of Travancore, Valliyoor Branch, the same returned with an endorsement as ''insufficient opening balance''. After following the legal formalities, he has filed a private complaint before the learned Judicial Magistrate, Nanguneri under the jurisdiction where the branch of the bank lies. But the learned Judicial Magistrate dismissed the complaint stating that the cheque was drawn on Syndicate Bank, K.K.Nagar Branch, Chennai and the same was presented for collection before the State Bank of Travancore, Valliyoor Branch, following the judgement of this Court in **2011 2 MLJ(Criminal) 357 Pritish Tiwari .vs. Vista Security Techniques Private Limited,Chennai, represented by its authorized signatory Dharmaraj** holding that the cheque must be presented before the drawee Bank and not on the drawer bank. Now challenging the same, the present revision has been filed.

3.The learned counsel for the Petitioner submitted that even assuming that the Judicial Magistrate, Nanguneri has no



jurisdiction, he cannot dismiss the complaint and he can only return the complaint to present the same before the concerned judicial Magistrate under Section 201 of Cr.P.C. The learned Judicial Magistrate has no power to dismiss a complaint on the ground of want of jurisdiction. I find some force in the arguments of the learned counsel for the Petitioner. If the learned Judicial Magistrate found that he has no jurisdiction to take cognizance of the complaint, he can only return the complaint and he cannot dismiss the complaint.

4. In the above circumstances, the Criminal Revision Case is allowed and the order passed by the learned Judicial Magistrate, Nanguneri in Cr.M.P.No.3059 of 2013, dated 6.6.2013 is set aside and the learned Judicial Magistrate is directed to restore the complaint on file and to proceed with the same in accordance with law.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

The Judicial Magistrate,
Nanguneri

+1cc to M/S.D.VENKATESH, Advocate SR.No.71205

vsn

MAS/KK/SAR2:28.08.2017:2P-3C

Cr1.R.C(MD) No.709 of 2013

08.08.2017