

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.08.2018

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THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.20523 of 2018
and
CRL.M.P.No.11048 of 2018

K.Sakthivel Murugan .. Petitioner/Accused
Vs

Dhanalakshmi Srinivasan Chit Funds Pvt Ltd.,
Represented by its Power of Attorney,
Mr.K.A.Kannan
S/o Mr. Anantharaman,
H.O.at 274/C, Thuraiyur Road,
perambalur-621212 .. Respondent/Complainant

Criminal Original Petition filed under Section 482
Cr.P.C., praying to call for the records on the file of
the Judicial Magistrate, Perambalur in S.T.C.No.1458 of
2018 and quash the same.

For Petitioner : Mr.R.Jeyaratchagan

O R D E R

This petition has been filed to call for the
records on the file of the Judicial Magistrate Court,
Perambalur in S.T.C.No.1458 of 2018 and quash the same.

2. For the sake of convenience, the petitioner and
the respondent will be referred to as the accused and the
complainant respectively.

3. It is the case of the complainant i.e.
Dhanalakshmi Srinivasan Chit Fund Private Limited that it
is a Company incorporated under the Companies Act. The
accused joined in the chit and defaulted in making
payment. Towards the liability, the accused issued the
impugned cheque, when presented and the same was
dishonoured. After issuing the statutory notice, the
present complaint has been filed in S.T.C.No.1458 of 2018
before the Judicial Magistrate Court, Perambalur under
Section 138 of the Negotiable Instruments Act, for
quashing which, the accused is before this Court.

4. Heard the learned counsel for the accused, who submitted that the very complaint is not maintainable, since it has been filed by a Power Agent who does not know the facts and circumstances of the case.

5. In A.C.Narayanan v. State of Maharashtra & Another with G.Kamalakar v. M/s.Surana Securities Ltd. & Another [2014 CRL. L.J.576], the Supreme Court has very clearly held that a power of attorney can file a complaint under Section 138 of the Negotiable Instruments Act. In this case, the complainant is a juristic person, viz., Dhanalakshmi Srinivasan Chit Fund Private Limited and is not a natural person. Therefore, some human agency will have to represent the juristic person before the Court. In this case K.Kannan, who is the Manager (Legal), has been given the Power of Attorney to file the complaint. Therefore, it cannot be stated that the complaint should be quashed at the threshold. In a case of this nature, the debt will have to be proved by records. Hence, this Court does not find any infirmity in the complaint for quashing it at the threshold.

6. Accordingly, this petition is dismissed. The accused is directed to appear before the trial Court within four weeks from the date of receipt of a copy of this order and he shall be released on bail under Section 436(1) Cr.P.C on the same day itself, on condition that he execute a bond for Rs.10,000/- with two common sureties. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To

1.The Judicial Magistrate,
Perambalur-621212

2.Thro the Chief Judicial Magistrate, Perambalur

+2cc to Mr.R.Jeyaratchagan , Advocate SR.No. 57514

CRL.OP.No.20523 of 2018

ASK(17/09/2018)