

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

Crl.OP.No.20330 of 2011
and M.P. Nos. 1 & 2 of 2011

Rahul Kohli

.. Petitioner

Vs.

Sree Gokulam Chit & Finance Co.(P) Ltd.,
rep. by its Legal Clerk
Sr.B.Praveen
Gokulam Towers,
No.356, Arcot Road,
Kodambakkam,
Chennai-600 024.

.. Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C to call for the records in C.C.NO.3665 of 2007 on the file of XVII Metropolitan Magistrate, Saidpet, Chennai and quash the same.

For Appellant : Mr. E.Kannadasan
For Respondent :

O R D E R

The prayer sought for in the present petition is call for the records in C.C.No.3665 of 2007 on the file of XVII Metropolitan Magistrate, Saidpet, Chennai and quash the same.

2. The petitioner is the first accused n C.C. NO. 3665 of 2007 pending on the file of XVII Metropolitan Magistrate, Saidapet, Chennai for offence under Section 138 of N.I Act, which was instituted by the respondent /complainant.

3. The Brief facts of the case is that the respondent was doing Chit and Finance business and the petitioner is a subscriber and had been a successful bidder for chit. While disbursing the chit amount to the petitioner, the respondent had obtained one blank cheque bearing No. 075046 issued by the the HDFC Bank, Second Lane Beach , Chennai from the petitioner. Since, there was some delay in making balance chit amount by the petitioner, the respondent had taken advantage on the blank cheque and filled Rs.52,681/- and deposited the said cheque on 26.06.2006 in the Catholic Syrian Bank Ltd., Kodambakkam Branch, which was returned as "Account Closed". The respondent issued a legal notice to the petitioner on 24.07.2006 demanding cheque amount and the said legal notice was returned with an endorsement "addressee

left". Hence the respondent had filed a private complaint against the petitioner under Section 138 N.I Act in C.C. No. 3665 of 2007 before the XVII Metropolitan Magistrate, Saidapet, Chennai. Subsequently, bailable warrant was also came to be issued against the petitioner.

4. The learned counsel for the petitioner submitted that when the petitioner produced a Demand Draft to the respondent/complainant, the same was not accepted by the respondent, however, the respondent has demanded more money, which was not accepted by the petitioner. Therefore, the petitioner had approached the trial Court and enclosed a copy of the said Demand Draft along with the advance hearing petition filed by him on 09.08.2011.

5. It is further submitted by the petitioner is that the lower court had failed to entertain the same and returned the said petition. The petitioner further submitted that the petition filed before the trial Court along with copy of the Demand Draft would show his intention to settle the cheque amount. The petitioner reiterates that he is willing to pay the cheque amount. Hence, the petitioner is permitted to take fresh Demand Draft for the cheque amount and approach the trial Court.

6. In view of the various decisions of the Hon'ble Apex Court and this Court with regard to the similar issues, the trial Court is directed to receive the Demand Draft to be produced by the petitioner and take a lenient view and dispose of the case, which is pending from the year 2003 onwards, at the earliest, preferably within three months from the date of receipt of a copy of this Order.

7. With the above observations and directions, this Criminal Original Petition stands disposed of.

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

To
The XVII Metropolitan Magistrate,
Saidapet, Chennai

sm:26.7.2018

Cr1.OP.No.20330 of 2011
and M.P. Nos. 1 & 2 of 2011