

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.06.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.14923 of 2018
and Crl.MP Nos.7519 & 7520 of 2018

Terry Lock Lane

Terrans Metro Power,

Engineering Consultants & Contractors,

"Sakunthala Illam",

No.12, PND Nagar, Peerankaranai,

Perungalathur,

Chennai-63

.. Petitioner

Vs

AVR Natesan,

Proprietor, Lakshmi Agencies,

No.4/12, Vallalar Street, New Perungalathur,

Chennai - 600 063.

Rep. by Power of Attorney

Mr.V.Anantharaman

No.2/61, Thiruvalluvar Street,

New Perungalathur,

Chennai - 600 045.

.. Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records in STC No.2317 of 2015 on the file of the Hon'ble Judicial Magistrate, Tambaram and quash the same.

For Petitioner : M/s.Waraon and Sai Rams

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O R D E R

This petition has been filed to quash the proceedings in STC. No.2317 of 2015 on the file of the Judicial Magistrate Court, Tambaram.

2.For the sake of convenience, the parties will be referred to as complainant and accused. It is the case of the complainant that they are having a showroom, wherein, they sell tiles that are required for construction. It is the case of the

complainant that the accused is an Engineering Consultant and he has purchased tiles worth Rs.1,30,000/- on credit and towards the purchase, he has issued an impugned cheque dated 07.07.2014; that the complainant presented the cheque on 07.07.2014 and the same was returned on 08.07.2014; that the complainant issued a notice dated 10.07.2014 to the accused, which was returned as "no such person"; that on the instructions of the accused, the complainant re-presented the cheque on 23.07.2014 and the same was once again dishonoured on 24.07.2014; that the complainant issued a demand notice dated 28.07.2014, which was received by the accused and thereafter, the accused issued a reply notice dated 02.08.2014 denying the allegations; that since the accused did not make the payment, the complainant had initiated a prosecution in STC.No.2317 of 2015 and the same is now pending on the file of the Judicial Magistrate Court, Tambaram. Challenging which, the accused is before this Court.

3. Heard the learned counsel for the accused, who submitted that:

a] the accused was only a sub contractor and that the main contractor has died and there is no debt due from the accused to the complainant;

b] the accused had sent an e-mail dated 09.07.2014 contending that the total amount due is only Rs.1,28,000/- and that the cheque was issued only as security;

C] the cheque is for Rs.1,30,000/-, but whereas, the debt is only for Rs.1,28,000/- and that too, the accused is not the debtor.

4. In the considered opinion of this Court, disputed question of facts cannot be gone into, in a quash petition under Section 482 of Cr.P.C., in view of the law laid down by the Hon'ble Supreme Court in the case of S.Krishnamurthy Vs Chellammal reported in [2015] 4 SCALE 371. It is for the complainant to first prove the debt in accordance with law and he can be cross-examined by the accused during trial. Hence, this petition is dismissed with liberty to the petitioner to raise all the points before the trial Court. The petitioner is directed to appear before the trial Court within a period of two weeks from the date of receipt of a copy of this order and on such appearance, he shall be released on bail under Section 436 of Cr.P.C. on the same day, on executing a bond for Rs.5,000/- [Rupees Five Thousand only] with two sureties to the satisfaction of the

trial Court. Thereafter, if the petitioner absconds, a fresh FIR can be registered against him under Section 229-A of IPC. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

gya

To

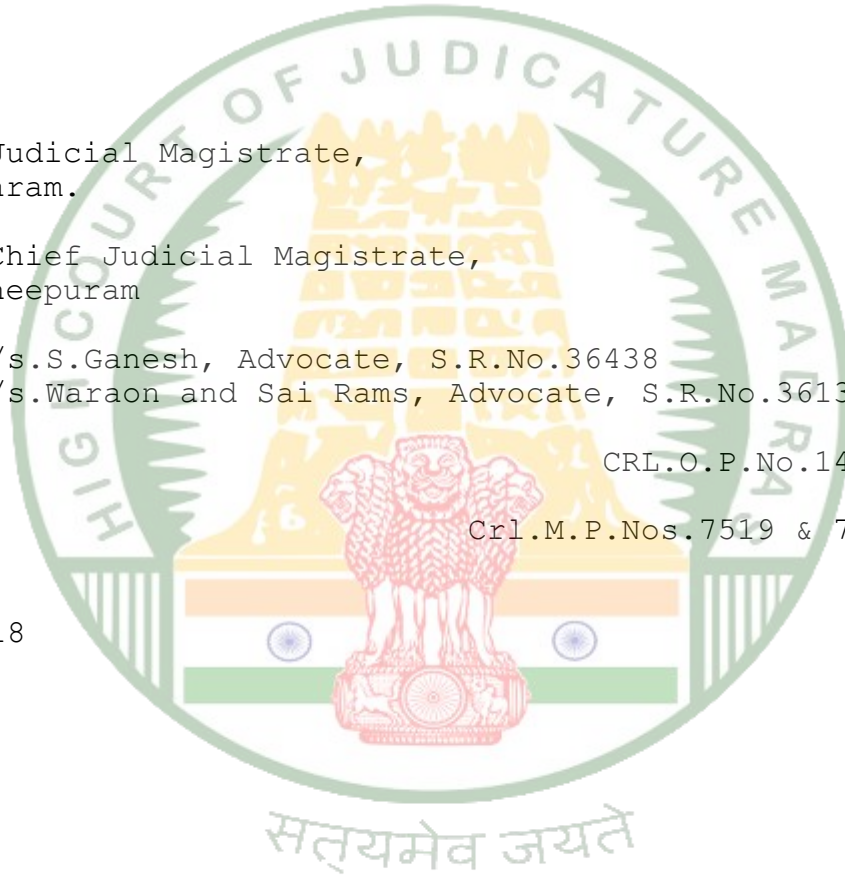
1. The Judicial Magistrate,
Tambaram.
2. The Chief Judicial Magistrate,
kancheepuram

+1cc to M/s.S.Ganesh, Advocate, S.R.No.36438

+1cc to M/s.Waraon and Sai Rams, Advocate, S.R.No.36130

CRL.O.P.No.14923 of 2018
and
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RR(CO)
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