

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2018

CORAM

THE HONOURABLE Mrs.JUSTICE R.HEMALATHA

CRL.O.P.No.28168 of 2012

and

M.P.Nos.1 and 2 of 2012

Vijayandra Raja

.. Petitioner

Vs

Venkatesan

.. Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records and quash the complaint in C.C.No.3794 of 2011 before the Judicial Magistrate-II, Ponneri, Thiruvallur District as against the petitioner.

For Petitioner : Mr.V.Narendiran

For Respondent : Mr.R.C.Paul Kanagaraj

O R D E R

The petitioner is the accused in C.C.No.3794 of 2011 on the file of the learned Judicial Magistrate No.II, Ponneri. The respondent / complainant had filed a private complaint under Section 200 Cr.P.C., before the learned Judicial Magistrate No.II, Ponneri against the petitioner / accused for an alleged offence punishable under Section 138 of Negotiable Instruments Act.

2.The case of the respondent / complainant is that the petitioner/ accused requested the respondent / complainant to let out Diesel Generators and accordingly, the generators of various kinds were let out and the petitioner / accused had to pay a sum of Rs.2,38,700/-, for which, he issued a cheque dated 19.10.2010 for a sum of Rs.1,70,000/- drawn on Axis Bank Limited, Rmapuram Branch, Chennai-87 in full and final settlement. When the cheque was presented for encashment by the respondent / complainant on 09.02.2011, the same was returned for the reason "insufficient funds". He therefore issued a legal notice dated 01.03.2011, which was received by the petitioner / accused as evidenced by the postal acknowledgment card dated 10.03.2011. The contention of the respondent / complainant is that even though the petitioner / accused

received the said notice, he did not come forward to make good the payment. He therefore filed a private complaint under Section 200 Cr.P.C. against the petitioner / accused for the offences punishable under Sections 138 and 142 of Negotiable Instruments Act.

3.Mr.V.Narendiran, learned counsel appearing for the petitioner / accused contended that the respondent / complainant did not disclose the date of receipt of the notice by the petitioner / accused in his complaint and therefore, the complaint in C.C.No.3794 of 2011 has to be quashed under Section 482 of Cr.P.C. Reliance was placed on the decision in State of Bihar and another vs. Shakthi Travel and Tours reported in 2002 9 SCC 415. It is pertinent to point out that in the above decision relied on by the learned counsel for the petitioner, the complainant has not mentioned whether the notice was served on the accused and in such circumstances, it was held that the proceedings initiated by the complainant under Section 138 of Negotiable Instruments Act is liable to be quashed. As far as the present case is concerned the petitioner / accused has received the notice and had also acknowledged the same, as is evidenced by the postal acknowledgment card dated 10.03.2011 filed along with the complaint.

4.The contention of the petitioner is that the complaint does not disclose a cause of action cannot be accepted, since a perusal of the complaint clearly shows that there is a cause of action for filing the complaint. Therefore, I do not find any reason to quash the proceedings in C.C.No.3794 of 2011 on the file of the Judicial Magistrate No.II, Ponneri.

5.Accordingly, this Criminal Original Petition is dismissed and consequently, connected Miscellaneous Petitions are closed.

सत्यमेव जयते

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

ia

To

The Judicial Magistrate No-II,
Ponneri, Thiruvallur District.

+1cc to Mr.V.Narendiran, advocate sr.no.37683

Crl.O.P.No.28168 of 2013

nr 16/07/2018



WEB COPY