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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.10.2018

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THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CRL.O.P.(MD) No.7547 of 2017

and

Cr1.M.P.(MD) Nos.5166 and 5167 of 2017

S.Kaja Maideen

... Petitioner/Accused

Vs

B.Habeeb Husen

... Respondent/Complainant

PRAYER: Criminal Original Petitions filed under Section 482 of Cr.P.C, to call for the records pertaining to the complaint in S.T.C.No.308 of 2016 on the file of the learned Judicial Magistrate Court No.I, (Fast Track Court at Magistrate Level) Madurai and quash the same.

For Petitioner : Mr.R.Karunanidhi

For Respondent : Mr.I.Saliyakhan

ORDER

This petition has been filed to quash the proceedings in S.T.C.No.308 of 2016 on the file of the learned Judicial Magistrate Court No.I, (Fast Track Court at Magistrate Level), Madurai.

2.The learned counsel for the petitioner has raised several grounds. However, this Court deems it fit to deal with one important ground that has been raised by the learned counsel with regard to a stale cheque being deposited by the respondent beyond the period of three months from the date of the drawal of the cheque.

3.The learned counsel for the respondent brought to the notice of this Court that the cheque has been drawn on 07.08.2015. This cheque has been presented before the bank on 05.01.2016. The same is clear from the written memo issued by the State Bank of India, Amman Sannadhi Branch, Madurai. In fact the cheque itself has been returned on the ground that it is "Out of Date".

4.As per the notification, the cheque has to be presented to the bank within a period of three months from the date on which it is drawn. Therefore, according to the learned counsel for the petitioner, the period of validity of the cheque is only three months from the date on which it is drawn and in this case, it is admittedly beyond the said period. The learned counsel would further submit that the requirements of Section 138 (a) of Negotiable Instruments Act, have not been fulfilled.

5.The learned counsel for the respondent is not able to seriously dispute the said fact since it is borne out by records. Even as per the allegation made in the complaint, the cheque was presented for collection only on 05.01.2016.



6.This Court is able to see force in the submission made by the learned counsel for the petitioner. The cheque in question is clearly time barred one and the private complaint filed by the respondent does not satisfy the requirement of Section 138(a) of the Negotiable Instruments Act. Therefore, the continuation of the proceedings before the Court below is an abuse of process of law.

7.In the result, the proceedings in S.T.C.No.308 of 2016 on the file of the learned Judicial Magistrate Court No.I, (Fast Track Court at Magistrate Level), Madurai, is hereby quashed and the Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

Sd/
Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar(CS-III)

To

1.The Judicial Magistrate No.I,(Fast Track Court at Magistrate Level)
Madurai.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.I.SULIYAKHAN, Advocate, SR.No. 93307

CRL.O.P.(MD)No.7547 of 2017

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KK/PM/SAR-3/13.12.2018/2P-4C