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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 10.10.2018
CORAM:
THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CrI.O.P. (MD) .No.9078 of 2016
and
CrI MP (MD) Nos.4505 and 4506 of 2018

B.R.K.Adityan

...Petitioner/Accused

Vs.

A.Muthuramalingam

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records and quash the Private Complaint in STC No.60 of 2016 pending before the Judicial Magistrate No.IV, Tirunelveli.

For Petitioner : Mr.S.Karthick Subramanian
For Respondent : S.Planivelayutham

ORDER

This petition has been filed seeking to quash the proceedings pending in STC No.60 of 2016, pending before the Judicial Magistrate No.IV, Tirunelveli.

2.The learned Counsel for the petitioner has raised a legal point in order to quash the proceedings that has been initiated under Section 138 of NI Act. The learned Counsel for the petitioner would submit that a cheque was deposited in this case on 11.07.2015 and the same was returned by the Bank on 13.07.2015. Thereafter, the statutory notice was given only on 12.08.2015. Therefore, according to the petitioner, the statutory notice was given only on the 31st day and therefore, the same is in violation of the mandatory requirement under Section 138(B) of the Negotiable Instruments Act, 1881.

3.This ground taken by the learned Counsel for the petitioner is not sustainable. While calculating the limitation for issuance of notice, the date on which the intimation is received from the Bank should be excluded. In this case, the intimation was received from the bank on 13.07.2018. If the date is excluded, the statutory notice has been given within 30 days and therefore, it is in compliance with Section 138 (B) of the Negotiable Instruments Act.

4.This view taken by this Court is supported by the judgment reported in Sivakumar Vs. Natarajan reported in 2007 2 LW CrI 853 and Rajesh.K.C Vs. T.K.Santhakumar and others reported in 2016 1 MWN CrI DCC 49.



5. In view of the same, this criminal original petition is dismissed. The Court below is directed to complete the proceedings in STC No.60 of 2016, within a period of three months. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar (CS-III)

To

The Judicial Magistrate No.IV,
Tirunelveli.

Cr1.O.P. (MD) .No.9078 of 2016
10.10.2018

DSK
ES/PM/SAR 3/20.12.2018/2P/2C