



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD) No.21034 of 2013

and

M.P. (MD) Nos.1 and 2 of 2013

1.M/s.Sree Meghana Distributors (P) Ltd.,
Rep. by its Director Mr.P.Chandramohan,
B-54, DD Colony,
Baghamberpet,
Hyderabad - 500 007.

2.Mr.P.Chandra Mohan,
Director,
M/s.Sree Meghana Distributors (P) Ltd.,
B-54, DD Colony,
Baghamberpet,
Hyderabad - 500 007.

3.Mrs.Sumathi Chandramohan,
Director,
M/s.Sree Meghana Distributors (P) Ltd.,
B-54, DD Colony,
Baghamberpet,
Hyderabad - 500 007.

... Petitioners/Accused

Vs.

M/s.S.Albert & Co. Private Limited,
Rep. by its Accountant, S.Pechimuthu,
Registered Office at No.13/1, Whannels Road,
Egmore, Chennai - 600 008.
Head Office at No.75, South Raja Street,
Tuticorin - 628 001.

... Respondent/Complainant

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to C.C.No.636 of 2012 on the file of the Judicial Magistrate, Fast Track Court [Magisterial Level], Tuticorin, and quash the same.

For Petitioners

: Mr.S.K.Srinivasan

<https://hcservices.ecourts.gov.in/hcservices/> For Respondent

: Mrs.AL.Ganthimathi



ORDER

The petitioners have filed this Criminal Original Petition for quashing the proceedings in C.C.No.636 of 2012 on the file of the Judicial Magistrate, Fast Track Court [Magisterial Level], Tuticorin.

2.The respondent herein is the drawee of the cheque. The case has arisen under Section 138 of the Negotiable Instruments Act.

3.Sri.S.K.Srinivasan, learned counsel appearing for the petitioners firmly submitted that the complaint cheque is dated 26.02.2000 and that it was actually presented only on 28.08.2000 and it came to the drawer's bank viz., Bank of Madura, on 30.08.2000. Though the cheque ought to have been returned on the ground that it was presented beyond the due date, it was returned with an endorsement ''Account Closed''. The learned counsel appearing for the petitioners placed reliance on the decision of the Hon'ble Supreme Court reported in **2001 (1) CTC 616 [Ishar Alloy Steels Ltd. Vs. Jayaswals NECO Ltd.]**, wherein the Hon'ble Supreme Court had categorically held that the offence under Section 138 of the Negotiable Instruments Act, would be made out only if the cheque in question is presented before the drawer's bank within a period of six months from the date on which, it is drawn or within period of its validity, whichever is earlier.

4.In the present case, the complaint cheque reached the drawer's bank only on 30.08.2000.

5.The respondent/complainant had entered appearance through counsel. But, today when the matter was taken up for hearing, the learned counsel for the respondent/complainant submitted that the papers have already been returned to the complainant. If that is so, the complainant ought to have made alternate arrangements. This Court is not inclined to adjourn the case on this ground. In any event, the facts as appearing before this Court from the records clearly reveal that the complaint cheque was presented out of date. Therefore, the impugned proceedings in C.C.No.636 of 2012 on the file of the Judicial Magistrate, Fast Track Court [Magisterial Level], Tuticorin, shall stand quashed. This Criminal Original Petition is allowed accordingly. Consequently, connected Miscellaneous Petition are closed.

Sd/-

Assistant Registrar(P & A)



smn2

To

The Judicial Magistrate,
Fast Track Court [Magisterial Level],
Tuticorin.

CrI.O.P. (MD) No. 21034 of 2013
and
M.P. (MD) Nos. 1 and 2 of 2013
20.04.2018

SMA/CM-PN/S-3/14.05.2018:3P/2C