



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.04.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1. OP (MD)No.22116 of 2013
and
MP(MD)No.2 of 2013

R.Nagendran

... Petitioner

Vs.

Udhayam Enterprises Pvt. Ltd.,
Rep.by its Managing Director,
RM.Thiyagarajan,
10, Jawan's Bhavan,
Opp.to Head Post Office, Thanjavur.

... Respondent

Prayer : This Criminal Original Petition is filed Under Section 482 of Criminal Procedure Code to call for the records and quash the complaint in STC No.104 of 2012 on the file of the Fast Track Court at Magisterial Level, Thanjavur.

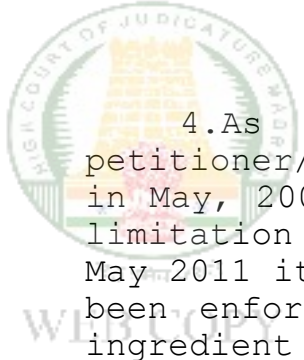
For Petitioner	: Mr.G.Prabhu Rajadurai
For Respondent	: Mr.V.Rajiv Rufus

ORDER

The petitioner has filed this petition under Section 482 of Cr.Pc for quashing the complaint in STC No.104 of 2012 on the file of the Fast Track Court at Magisterial Level, Thanjavur. The respondent herein had filed the said private complaint under Section 138 of the Negotiable Instruments Act, 1881 against the petitioner herein.

2.It is seen from the complaint averments that the petitioner herein had purchased some goods from the branch of the complainant's company for a value of Rs.85,000/-. According the complainant, only a sum of Rs.10,000/- alone was paid and for the remaining amount credit was availed. The transaction between the parties took place on 13.05.2008. The cheque in question was presented on 20.12.2011. The learned Trial Magistrate has taken the private complaint on file and issued summons to the petitioner herein.

3.The learned counsel for the respondent complainant would submit that the grounds raised by the accused are to be raised only during trial and that they are not sufficient to quash the complaint itself.



4.As rightly pointed out by the learned counsel for the petitioner/accused, the transaction between the parties took place in May, 2008. The cheque is dated 20.12.2011. Thus, the period of limitation for enforcing the liability in this case got lapsed in May 2011 itself. Since the liability of the accused could not have been enforced as the debt itself became time barred, the basic ingredient to maintain the complaint under Section 138 of the Act is absent in this case. Even by taking the averments set out in the complaint as true, still no case has been made out against the accused. Allowing the impugned prosecution would only amount to an abuse of legal process. The complaint cheque is in respect of a time barred debt. Therefore, the plea taken by the petitioner's counsel deserves acceptance. Accordingly, the impugned complaint is quashed. This Criminal Original Petition stands allowed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

The Judicial Magistrate,
Fast Track Court at Magisterial Level,
Thanjavur.

+1cc to M/S.G.Prabhu Rajadurai, Advocate SR.No. 61359
+1cc to M/S.V.Rajiv Rufus, Advocate SR.No. 61358

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skm

JM/SV/SAR 1/06.07.2018/2P/4C