

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2019

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.22112 of 2018  
and Crl.M.P.Nos.12188 & 12189 of 2018

Hi-Care LATEX (P) Limited  
Represented by its Director,  
Mr.Antony Kurian  
Carrying business at  
Rottigoundanur,  
Thirumalaympalayam,  
Madukkarai (Via)  
Coimbatore - 641 105.

... Petitioner

Vs.

R.Palanisamy

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the prosecution in C.C.No.698 of 2017 on the file of the Fast Track, Judicial Magistrate No.I (Cheque Cases) Coimbatore for an offence under Section 138 of Negotiable Instruments Act, 1881.

For Petitioner : Mr.C.Arun Kumar  
For Respondent : Mr.S.Sugendran

O R D E R

This petition has been filed seeking to quash the proceedings initiated by the respondent for an offence under Section 138 of the Negotiable Instruments Act.

2. The respondent has filed a criminal complaint for an offence under Section 138 of the Negotiable Instruments Act against two accused persons and the petitioner has been added as A1, in his capacity as the Director of the Hi-Care LATEX (P) Limited.

3. The learned counsel for the petitioner primarily raised two grounds in order to impress upon this Court that the proceedings against this petitioner is not sustainable.

4. The first ground that was raised by the learned counsel for the petitioner is that admittedly it was A2 who is the signatory of the cheque and that is made clear in Paragraph No.2 of the complaint and therefore without their being sufficient allegations against this petitioner, the petitioner ought not to have been made as an accused in this case.

5. The next point that was urged by the learned counsel for the petitioner is that the cheque was dishonored on 11.04.2017 and as per the Section 138 of the Negotiable Instruments Act, notice has to be issued within a period of thirty days from the date on which the cheque was returned. In this case, admittedly the notice was issued upon the petitioner only on 09.06.2017 and therefore, it is beyond the time fixed by the Act. Therefore, the learned counsel submitted that the proceedings will have to be quashed on this ground also.

6. The learned counsel for the respondent submitted that admittedly in this case, the cheque was issued on behalf of the Hi-Care LATEX (P) Limited and the petitioner is the authorized signatory of the Company. The learned counsel submitted that, there is a specific allegation in the complaint to the effect that the petitioner is also involved in the day-to-day affairs of the Company. Therefore, the learned counsel submitted that the complaint is maintainable even as against the petitioner and all the other grounds that have been taken by the learned counsel for the petitioner has to be decided only during the course of trial.

7. This Court has carefully considered the submissions made on either side and also the materials available on record.

8. This Court finds force in the submissions of the learned counsel for the petitioner. Both the grounds raised by the learned counsel for the petitioner is accepted by this Court and this Court finds that the complaint is not maintainable as against the petitioner. There is no valid reply for the legal grounds raised by the learned counsel for the petitioner and in the considered view of this Court, the continuation of the proceedings as against the petitioner is an abuse of process of Court.

9. In the result, proceedings in C.C.No.698 of 2017 is hereby quashed insofar as the petitioner is concerned. Accordingly, this Criminal Original Petition is allowed. The

Court below is directed to complete the proceedings in C.C.No.698 of 2017, within a period of three months from the date of receipt of copy of this order. Consequently, connected miscellaneous petitions are closed.

s/d-  
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

To

1. The Fast Track,  
Judicial Magistrate No.I (Cheque Cases), Coimbatore

+1 CC to Mr.S.Sugendran, Advocate sr 64568.

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PA(CO)  
SP(14/09/2019)