

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.22680 of 2018

and Crl.MP.No. 12595 & 12596 of 2018

K.Thirugnanam

... Petitioner / Accused

Vs.

S.Manickam

... Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in S.T.C.No.1049 of 2018 on the file of the learned Judicial Magistrate No.V, Salem and quash the same by allowing this Criminal Original Petition.

For Petitioner : Mr. S.Siva Kumar

For Respondent : Mr.A.G.Narasimhan

O R D E R

This petition has been filed to quash the proceedings in S.T.C.No.1049 of 2018, on the file of the learned Judicial Magistrate No.V, Salem.

2. It is seen that the proceedings in S.T.C.No.1049 of 2018, initiated by the respondent for the offence punishable under Section 138 of Negotiable Instruments Act as against the petitioner. The crux of the complaint is that the petitioner approached the respondent to show the shooting spots, to arrange vehicle, lodging, boarding and to give protection to the equipments at Yercaud for a film shooting of a cinema called "Paramapatham". Accordingly, the respondent having been made the arrangements and towards the payment of the same, the petitioner issued two cheques for a sum of Rs.51,500/- and Rs.10,000/-. The said cheques were presented for collection and the same were returned dishonoured initially for the reason that insufficient fund and thereafter dishonoured for the reason that "Instruments out dated". After causing statutory notice the respondent initiated proceedings under Section 138 of Negotiable Instruments Act.

3. The learned counsel appearing for the petitioner submitted that the cheques were issued by the petitioner on 08.11.2017. Both the cheques were presented for collection lastly on 19.03.2018. Though those cheques were returned initially for the reasons funds insufficient, on its third presentation, both the cheques were returned for the reason that "Instruments out dated" and the respondent banker issued return memo to that extent. On the basis of the return memo the respondent caused legal notice on

24.03.2018 and initiated the proceedings under Section 138 of Negotiable Instruments Act. Therefore, the present proceedings are not maintainable and therefore prayed for quashment of the proceedings.

4. Per contra, the learned counsel appearing for the respondent/defacto complainant submitted that initially, the cheques were returned on 18.01.2018, for the reason that insufficient fund and on the instructions of the petitioner, the respondent re-presented the cheques for collection. Only on the third presentation, the cheques were returned with an endorsement "Instrument out dated". Therefore he prayed for dismissal of the quash petition.

5. Heard Mr.S.Siva Kumar, learned counsel appearing for the petitioner and Mr.A.G.Narasimhan, learned counsel appearing for the respondent.

6. Admittedly, the cheques were presented after the period of three months from the date of issuance of the cheques. Therefore, the instrument issued by the petitioner become invalid after the period three months from the date of issuance. It is also seen from the return memo the cheques were returned for the reason that "Instrument out dated". Therefore, the learned Magistrate ought not to have taken cognizance, since the instruments itself become invalid. Therefore, the complaint cannot be sustainable as against the petitioner and it is liable to be quashed.

7. Accordingly, the Criminal Original Petition stands allowed and the proceedings in S.T.C.No.1049 of 2018, on the file of the learned Judicial Magistrate No.V, Salem, is hereby quashed. Consequently, connected miscellaneous petitions are closed.

sd/
ASSISTANT REGISTRAR

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

rts

To

1. The Judicial Magistrate No.V,
Salem.

+1CC to Mr.A.G.Narasimhan Advocate SR.NO.33968
+1CC to Mr. S.Siva Kumar Advocate SR.NO.32064

CRL.O.P.No.22680 of 2018
and CrI.MP.No. 12595 &
12596 of 2018

MK:08/06/2019

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