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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.07.2019

CORAM

THE HON'BLE Mr.JUSTICE P.N.PRAKASH

CrI.R.C.No.676 of 2019
and CrI.M.P.No.9440 of 2019

M/s.Sivasai Traders
A proprietary concern,
Rep. by its Proprietor
Nityananda
Plot No.5, Bhavani Nagar,
Koil Street, Vandavasi Road,
Arni 632 001.

... Petitioner/
Accused No.1

Vs.

M/s.Ashika Incense Inc
A proprietary concern,
Having office at
No.3911, 14th Cross
K.R.Road, 9th Main Corner
Banashankari 2nd Stage,
Bengaluru 560 070
Rep. by its Proprietor
T.V.Venugopal

... Respondent/
Complainant

Criminal Revision filed under Section 397 read with Section 401 Cr.P.C. seeking to set aside the order dated 14.05.2019 made in C.C.No.32 of 2015 passed by the Judicial Magistrate, Arni, Tiruvannamalai District.

For Petitioner : Mr.S.Vijayakumar

O R D E R

This criminal revision has been filed seeking to set aside the order dated 14.05.2019 passed by the Judicial Magistrate, Arni in C.C.No.32 of 2015.



2. For the sake of convenience, the petitioner and the respondent are referred to as the accused and complainant respectively.

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3. It is the case of the complainant that they are into business of manufacturing agarbathies in Bengaluru and that the accused had purchased agarbathies, towards which, the accused gave a cheque for Rs.9,09,412/-, which when presented by the complainant with their bank viz. ING Vysya Bank Ltd., Netkallappa Circle branch, Bengaluru was dishonoured. After issuing the statutory notice, the complainant initiated a prosecution before the XLII Additional Chief Metropolitan Magistrate, Bengaluru against the accused. During the pendency of the prosecution, the Supreme Court delivered the judgment in Dashrath Rup Singh Rathod Vs. State of Maharashtra [(2014) 9 SCC 129], pursuant to which, the case was transferred from the Court of XLII Additional Chief Metropolitan Magistrate, Bengaluru to the Judicial Magistrate, Arni. The Parliament amended the Negotiable Instruments Act, by inserting a Section 142A, in order to annul the law laid down by the Supreme Court in Dasrath Rup Singh Rathod (supra), pursuant to which, the learned Judicial Magistrate, Arni, by order dated 14.05.2019, has transferred the case back to the jurisdictional Magistrate in Bengaluru. Challenging the order dated 14.05.2019, the accused has filed the present revision petition.

4. Learned counsel appearing for the accused submitted that there is no material in the complaint to show that the complainant was having their account in ING Vysya Bank, Netkallappa Circle branch, Bengaluru. However, in paragraph No.6, it is stated as follows :

"6. The complainant presented the said cheque for encashment on 21.05.2014 with its Banker viz., ING Vysya Bank Ltd., Netkallappa Circle Branch, Bengaluru 560 004 and same was dishonoured and returned unpaid for the reason "EXCEEDS ARRANGEMENT" ... "

4. A reading of the above clearly shows that the complainant has averred that the impugned cheque was deposited with its banker, which means that the complainant was holding an account in the said branch. Hence, this Court does not find any



infirmity in the order passed by the trial Court warranting interference.

In the result, this criminal revision is dismissed.
Connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gya

To

1. The Judicial Magistrate,
Arni.
2. The XLII Additional Chief Metropolitan Magistrate,
Bengaluru.
3. The Chief Judicial Magistrate,
Thiruvannamalai District.

+1cc to Mr.S.Vijayakumar, Advocate, S.R.No.59887

Cr1.R.C.No.676 of 2019

RSI (CO)
CS/26/08/2019