BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.11.2019

CORAM :

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD)Nos.8115 & 8202 of 2018
and
Crl.M.P.(MD)Nos.3675, 3690 & 3691 of 2018 9576 & 9579 of 2019

1.K.Selvam

2.S.Ananthi ... Petitioners/Accused
(In both petitions)

Vs.

Sri Gokulam Chits and Finance Company (P) Ltd.,
No.7, Universal Galaxy,
Opp. To Bus Stand,
Thiruvalluvar Street,
Dindigul,
Represented by its Power Agent,
Dindigul Branch,
Mr.R.Rajagopal,
S/o.Ramasamy,
Branch Manager,
Dindigul District. ... Respondent/Complainant
(In both petitions)

Common Prayer: Criminal Original Petitions filed under section 482 of Criminal Procedure Code, to pass an order to call for the records pertaining to C.C.Nos.79 & 80 of 2018 on the file of the learned Judicial Magistrate No.II, Dindigul, and quash the same as illegal forthwith.

For Petitioners : Mr.M.Jegadeesh Pandian
(In both petitions)

For Respondent : Mr.S.Bharathi Kannan
(In both petitions)

COMMON ORDER

These petitions have been filed to quash the proceedings in C.C.Nos.79 & 80 of 2018 on the file of the learned Judicial Magistrate No.II, Dindigul.

2.The case of the prosecution is that the respondent is an authorized Power Agent of 'Sri Gokulam Chits and Finance Company (P) Ltd.,' who is running Chit Funds throughout Tamil Nadu. The petitioners herein joined in the chit run by the complainant in monthly Rs.2,50,000/- for 20 months scheme. They were provided with a chit group number G2M/0065/KDM/14 (30.01.2013 to 30.08.2014). In the fourth month of the chit i.e., on 26.04.2013, the petitioners took the chit amount based on the scheme schedule, a sum of Rs.37,28,370/- by way of cheque. Thereafter, for the rest of the month along with due and interest, the petitioners have to pay a sum of Rs.59,85,000/- as total outstanding. For the above said debt, the petitioners issued a cheque to the respondent and the same was returned for the reason that 'account closed'. Thereafter, the respondent issued Mandatory notice and there was no reply on the side of the petitioner. Hence, as per the agreement, the respondent initiated arbitration proceedings for default in payment of chit amount before the Arbitrator for Central Chennai Chit Fund Cases Court, Chennai, in ARC.No.103 of 2018. Further, the respondent initiated proceedings under Section 138 of the Negotiable Instruments Act, as against the petitioners before the learned Judicial Magistrate No.II, Dindigul and the same was numbered in C.C.No.79 of 2018.

3.The learned counsel for the petitioner would submit that the petitioners joined in chit in the respondent finance company. the complainant is an authorized Power Agent of 'Sri Gokulam Chits and Finance Company (P) Ltd.,' who is running Chit Funds throughout Tamil Nadu. The petitioners herein joined in the chit run by the complainant in monthly Rs.2,50,000/- for 20 months scheme. They were provided with a chit group number G2M/0065/KDM/14 (30.01.2013 to 30.08.2014). In the fourth month of the chit i.e., on 26.04.2013, the petitioners took the chit amount based on the scheme schedule, a sum of Rs.37,28,370/- by way of cheque. Thereafter, for the rest of the month along with due and interest, the petitioners have to pay a sum of Rs.59,85,000/- as total outstanding. He further submitted that the alleged cheque was given only for the purpose of security at the time of taking chit and it was never given for any illegal enforcement debt. Since there is a agreement between the petitioners and the respondent, the respondent initiated arbitration proceedings for default in payment of chit amount before the Arbitrator for Central Chennai Chit Fund Cases Court, Chennai, in ARC.No.103 of 2018 and the same is pending. In fact, the house property, belongs to the second petitioner also under the proceedings of attachment. Therefore, the respondent ought not have proceed with the alleged cheque, which was issued only for the security purpose, at the time of taking chit amount. He further submitted that even though, both the petitioners have jointly taken the chit amount, the alleged cheque was drawn through the account number of the second petitioner and she is the authorised signatory of the alleged cheque. Therefore, the first petitioner is concerned, he has nothing to do and he has been falsely implicated in this case. Hence, he prayed to quashment of these petitions.

4.The learned counsel for the respondent would submit that the respondent is an authorized Power Agent of 'Sri Gokulam Chits and Finance Company (P) Ltd.,' who is running Chit Funds throughout Tamil Nadu. The petitioners herein joined in the chit run by the complainant in monthly Rs.2,50,000/- for 20 months scheme. They were provided with a chit group number G2M/0065/KDM/14 (30.01.2013 to 30.08.2014). In the fourth month of the chit i.e., on 26.04.2013, the petitioners took the chit amount based on the scheme schedule, a sum of Rs.37,28,370/- by way of cheque. Thereafter, for the rest of the month along with due and interest, the petitioners have to pay a sum of Rs.59,85,000/- as total outstanding. For the above said debt, the petitioners issued a cheque to the respondent and the same was returned for the reason that 'account closed'. Thereafter, the respondent issued Mandatory notice and there was no reply on the side of the petitioner. Hence, as per the agreement, the respondent initiated arbitration proceedings for default in payment of chit amount before the Arbitrator for Central Chennai Chit Fund Cases Court, Chennai, in ARC.No.103 of 2018. Further, the respondent initiated proceedings under Section 138 of the Negotiable Instruments Act, as against the petitioners before the learned Judicial Magistrate No.II, Dindigul and the same was numbered in C.C.No.79 of 2018 and C.C.No.79 of 2018 and it is pending. Therefore, he prayed for dismissal of the quash petitions.

5. Heard the learned counsel for the petitioners and the learned counsel for the respondent.

6.A perusal of records, in order to return the debt amount, the second petitioner issued a cheque for a sum of Rs.59,85,000/- in favour of the respondent. The said cheque was presented for collection and the same was returned for the reason that 'account closed'. Admittedly, the alleged cheque was drawn through the account number of the second petitioner. She only issued alleged cheque to the respondent herein. In so far as the first petitioner is concerned, though, he has also joined with the chit conducted by the respondent, he did not issue any cheque to the respondent. Further, the account is also belongs to the second petitioner. Hence, she is the authorised signatory of the alleged cheque. Though, the respondent initiated the proceedings before the Arbitrator for Central Chennai Chit Fund Cases Court, Chennai, in ARC.No.103 of 2018, it is nothing to do with the present proceedings under Section 138 of the Negotiable Instruments Act. However, in so far as the first petitioner is concerned, he has nothing to do with regard to the alleged cheque issued by the second respondent.

7.In view of the above discussions, these Criminal Original petitions are allowed in so far as the first petitioner alone. In so far as the second petitioner is concerned, she is the signatory of the cheque, these petitions are dismissed as against her. Consequently, connected miscellaneous petitions are closed.

8.The trial Court is directed to complete the trial within a period of six months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

Sub Assistant Registrar(CS)

dss

To

The Judicial Magistrate Court No.II,
Dindigul.

Copy to:
The Section Officer, (2 Copies)
Criminal Section (Records)
Madurai Bench of Madras High Court,
Madurai.

+2 CC to M/s.S. BHARATHY KANNAN, Advocate (SR-98310 & 98312[F] dated 14/11/2019)

+1cc to Mr.M.Jegadeesh Pandian,Advocate, SR.No.97946

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