

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.07.2020

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P No. 3139 of 2017

and

Crl. M.P. No. 2266 & 2267 of 2017

P.V.Selvaraj,  
Proprietor,  
Premier Machine Tools,  
No.286, 35<sup>th</sup> Street,  
T.N.H.B. Colony,  
Korattur, Chennai- 600 039. ... Petitioner

vs.

M/s. Thirupura Chits Private Ltd.,  
Rep. by its Assistant General Manager,  
Mr. K.N.Sumithran,  
No.36, Jeenis Road,  
Second Floor, Saidapet,  
Chennai - 600 015. ... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to quash the complaint in C.C. No.5068 of 2015 on the file of the Learned Fast Track Court - III Metropolitan Magistrate, Saidapet, Chennai.

For Petitioner : Mr.Prakash Goklaney

For Respondent : No Appearance.

ORDER

This petition has been filed to quash the complaint in C.C. No.5068 of 2015 on the file of the Learned Fast Track Court - III Metropolitan Magistrate, Saidapet, Chennai.

2. Learned counsel for the petitioner would submit that the petitioner is an accused. He would further submit that the respondent lodged complaint in C.C. No.5068 of 2015 filed for the offences punishable under Section 138 of Negotiable Instruments Act. After receipt of the statutory notice under Section 138 of Negotiable Instruments Act, the petitioner filed

detailed reply notice stating that the alleged cheque was issued for the purpose of security and not issued in any legal enforcement depth and further, the date of issuance of cheque by the petitioner is much prior to date of closure of account. He would submit that even without considering these facts and without perusing the notice, learned Magistrate had taken cognizance for the offence punishable under Section 138 of Negotiable Instruments Act, as against the petitioner.

3. It is seen that the petitioner had joined chit group for the value of Rs.25,00,000/-. He prized the chit amount for a sum of Rs.18,75,000/- from the respondent and thereafter, the petitioner did not repay the said amount. Therefore, the respondent terminated the petitioner from the chit transaction in the month of October 2014 and there is a due from the accused to a tune of Rs.12,94,780/- towards repayment of said amount. He would further submit that the petitioner issued a cheque for a sum of Rs.12,94,780/- which was returned for the reason "Account Closed" and hence, the respondent sent statutory notice under Section 138 of Negotiable Instruments Act. On receipt of the same, the petitioner herein sent reply notice stating that the figure differ vastly from time to time according to the statement furnished by the respondent herein.

4. With the above observation, the grounds raised in this petition can be agitated only before the trial Court during the trial since all the points raised by the learned counsel for the petitioner are mixed question of facts and it cannot be considered in the quash petition under Section 483 Cr.P.C. Therefore, this Court is not inclined to allow this petition.

5. Accordingly, this Criminal Original Petition is dismissed. The petitioner is at liberty to raise all the grounds before the trial Court. Since this case is of the year 2015, 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. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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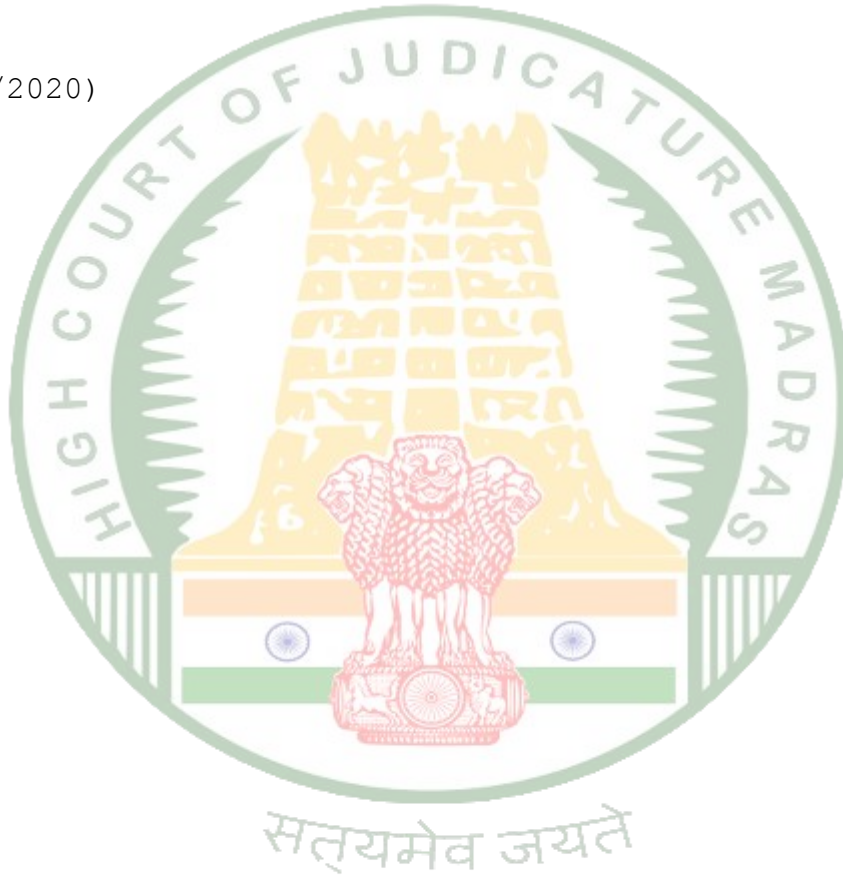
To

The Fast Track Court - III Metropolitan Magistrate,  
Saidapet, Chennai.

+2ccs to M/s.Prakash Goklaney, Advocate, Sr.No. 24828

CrI.O.P No. 3139 of 2017

VD (CO)  
RMP (16/10/2020)



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