

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.1411 of 2017

Bansal & Company
Rep.by its Power Agent
Praveen Kumar Agarwal,
New No.210, Old No.134,
N.S.C.Bose Road,
Sowcarpet, Chennai - 600 079. Petitioner

Vs.

S.Sasi Respondent

Prayer: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records and set aside the order dated 07.6.2016 passed in C.C.No.118 of 2016 on the file of the Fast Track Court No.III, Saidapet, Chennai.

For Petitioner : Mr.S.T.Raja
for Mr.Om Sai Ram
For Respondent : Mr.Muruganantham
for Mr.C.Jagadish

O R D E R

This petition has been filed to set aside the order dated 07.06.2016 made in C.C.No.118 of 2015 on the file of the Fast Track Court No.III, Saidapet, Chennai.

2. The gist of the case is as follows :

The petitioner is the complainant, who filed a private complaint under Section 138 of Negotiable Instruments Act against the respondent/accused. The petitioner and the respondent were having business relationship and that the respondent had placed the orders for supply of Silver Anklets on credit basis. In this business transaction, for discharging the liability, the respondent had given a cheque bearing No.057716, dated 29.09.2014, drawn on Axis Bank, Thiruvanniyur, Chennai for a sum of Rs.15,27,466/-. The petitioner had presented the cheque with his banker viz., The Ratnakar Bank Limited, T.Nagar, Chennai on 29.09.2014, however, the same was not honoured and

returned on 30.09.2014 for the reason 'funds insufficient'. Thereafter, again on presentation of the cheque and the same was returned on 15.10.2014. Hence, the petitioner issued a statutory notice to the respondent on 18.10.2014 and the same was returned with an endorsement 'unclaimed'. Thereafter, a complaint came to be registered. In paragraph No.6 of the complaint, it is seen that on 13.10.2014 the cheque for collection was presented with the petitioner's Bank viz., The Ratnakar Bank Limited, Agra. For the above reason, the trial Court had transferred the case before the Court having complaint bank jurisdiction.

3.The learned counsel for the petitioner submitted that the petitioner had filed a complaint along with the Ratnakar Bank Limited Return Memo, wherein, it has been clearly mentioned that the Return Memo has been issued by the Ratnakar Bank Limited, T.Nagar Branch. Further, the petitioner had produced the statement of accounts, from which, it is seen that the petitioner maintained the accounts in Ratnakar Bank Limited, T.Nagar, Chennai. However, the lower Court, despite the explanation given, had transferred the complaint, which is not proper. The petitioner as well as the respondent carried on business in Chennai. He further submitted that the petitioner's Bank is situated at T.Nagar, Chennai, where the cheque was presented as well as the respondent's Bank namely Axis Bank is situated at Thiruvannamiyur, Chennai. The entire transaction had taken place in Chennai. Hence, he prayed for setting aside the order of the trial Court dated 07.6.2016. Further, he submitted that the case bundle is still detained in Fast Track Court No.II, Metropolitan Magistrate, Saidapet, Chennai.

4.The learned counsel for the respondent submitted that since the petitioner in his complaint at paragraph No.6 has clearly mentioned that the cheque was presented for collection with his Bank viz., Ratnakar Bank Limited, Agra, hence, the trial Court had transferred the complaint as per the amendment made in the Negotiable Instruments Act (Amendment) ordinance, 2015-No.6 of 2015. He further submitted that this Court had sought explanation from the trial Court, wherein, the trial Court had admitted that the transfer was a mistake.

5.Considering the rival submissions and on perusal of the materials, it is seen that the business transaction between the petitioner and the respondent had taken place in Chennai. The respondent, for discharging his liability, had issued a cheque drawn from Axis Bank, Thiruvannamiyur Branch. Thereafter, the same was presented with Ratnakar Bank Limited, T.Nagar, Chennai, which was seen from endorsement of the cheque and also from the statement of accounts. In view of the same, there is no doubt that the cheque has been presented in the Ratnakar Bank Limited,

T.Nagar, Chennai, where the complainant maintained his account.

6.In view of the above facts and the submissions made by the learned counsel on either side, this Court is of the opinion that the order impugned in this petition is liable to be quashed. Accordingly, the order dated 07.06.2016 is set aside. The trial Court is directed to take the complaint on file and proceed with the trial. Further, taking into consideration the fact that the case is pending from the year 2015, the trial Court is directed to complete the trial within a period of three months from the date of receipt of a copy of this order, after lifting of lock down, commencement of normal functioning of the Court.

7.Accordingly, this Criminal Original Petition is allowed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
The Fast Track Court No.III,
Saidapet, Chennai.

Copy to
The Section Officer, High Court,
Madras-104.

Cr1.O.P.No.1411 of 2017

ssv (co)
rr ii (09/09/2020)

सत्यमेव जयते

WEB COPY