



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.O.P. (MD)No.5131 of 2020

Santhanakumar

... Petitioner / Defacto Complainant

Vs.

R.Soundaram

... Respondent

PRAYER:Petition filed under Section 482 of Criminal Procedure Code, to issue a direction to the learned Judicial Magistrate No.II, Usilampatti to number the petition filed by the petitioner in unnumbered C.C.No.--of 2019 and deal with to the same.

For Petitioner : Mr.S.Ramachandra Pradeep

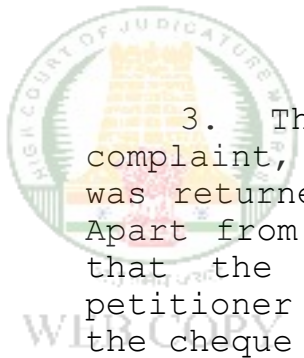
ORDER

The case of the petitioner is that the respondent borrowed a sum of Rs.1,00,000/- (Rupees One Lakh only) from the petitioner on 06.06.2019 towards which he gave a cheque dated 02.08.2019 bearing No.016860 drawn on Axis Bank in the name of the petitioner. The petitioner presented the said cheque in Tamil Nadu Mercantile Bank where he is having he account. But the same was returned by Axis Bank on account that the cheque is not a CTS cheque. Therefore, the petitioner filed a private complaint of cheating against the respondent before the learned Judicial Magistrate No.2, Usilampatti. The learned Judicial Magistrate has returned the complaint with the following endorsement;

"Since offence involved comes under Section 138 of NI Act, how complaint is maintainable. Hence returned. Time 1 month"

Challenging the same, the petitioner has filed the present petition for direction to the learned Magistrate to accept the complaint and pass orders in accordance with law.

2. In support of this contention, the learned counsel for the petitioner placed strong reliance on the judgement of this Court in **Sri Moogambigai Constructions India Pvt.Ltd.,rep. By its Managing Director K.M.Velumanie** reported in **(2017) 4 MLJ (Cr1) 302**.



3. This Court carefully perused the complaint. In the complaint, the petitioner has merely stated that the impugned cheque was returned by Axis Bank on account that it was not a CTS cheque. Apart from this assertion, there is absolutely no material to show that the said cheque was returned for the said reason. The petitioner merely stated that the staff of the bank told him that the cheque cannot be accepted since it is not a CTS cheque.

4. In the opinion of this Court, by no stretch of imagination can this amount to a cheating as alleged by the petitioner, though the Magistrate cannot return a complaint. But in the facts of the present case, this Court does not find any justification to issue a direction to the Magistrate to accept the complaint when the complaint itself lacks material particulars. It is always open to the petitioner to file a fresh complaint after obtaining the necessary endorsement from the bank for non acceptance of the impugned cheque or for its dishonour.

5. Accordingly, this Criminal Original Petition stands disposed of.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

The Judicial Magistrate No.II,
Usilampatti.

Crl.O.P. (MD)No.5131 of 2020
24.03.2020

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