



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.06.2020

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.10256 of 2018

and

Crl.M.P. (MD)Nos.4566 and 4567 of 2018

Ramesh ... Petitioner/Accused

Vs.

C.Reegan ... Respondent/Complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the proceedings in S.T.C.No.276 of 2017 pending on the file of the learned Judicial Magistrate No.II, Trichy and quash the same.

For Petitioner : No appearance
For Respondent : Mr.K.Sivabalan

O R D E R

None appears for the petitioner. However, the learned counsel appearing for the respondent is present.

2.This criminal original petition has been filed for quashing the proceedings in S.T.C.No.276 of 2017 on the file of the Judicial Magistrate No.II, Trichy. It is a private complaint filed by the respondent under Section 138 of Negotiable Instruments Act. Even according to the complaint, the cheque in question is drawn on the account of the partnership firm namely., Sree Sabari Exports. The petitioner/Ramesh is said to be the managing partner. Therefore, in the very nature of things the partnership firm in whose name the cheque has been drawn ought to have been made as an accused. The penal liability of the petitioner would arise in his vicarious capacity. Failure to array the partnership firm as one of the accused is fatal to the complaint. In fact this Hon'ble Court had granted interim order only on that basis. The issue is also no longer *res integra*. Therefore, the impugned complaint is not maintainable. It is quashed and the criminal original petition stands allowed.

3.The petitioner's counsel states that the complainant had supplied onions and potatoes to the accused firm under 33 consignments and that there are unimpeachable documents to establish



the same. Though the cause of action arose between October 2015 and January 2016, the cheque itself was issued only in August 2017 and therefore the complainant is definitely having the limitation to institute a civil suit for recovering their dues. However for computing the limitation, they would be in need of the original cheque. The same has been presented before the learned Judicial Magistrate No.II, Trichy. Therefore, the learned Judicial Magistrate No.II, Trichy is directed to return the original document filed by the complainant without any delay. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD II)

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Sub Assistant Registrar(CS)

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To:

The Judicial Magistrate No.II,
Trichy.

+1 CC to M/s.K.SIVABALAN, Advocate (SR-13116[F] dated
05/06/2020)

+1 CC to M/s.A.JOEL PAUL ANTONY, Advocate (SR-13144[F]
dated 05/06/2020)

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