

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.04.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.OP.No.7875 of 2021
CRL.MP.Nos.5223 & 5224 of 2021

1.M/s.D.J.R.Systems
Rep.by its Proprietor D.Ragunathan
No.39/14, G.A.Road,
Old Washermenpet,
Chennai-21.

2.D.Ragunathan ...Petitioners
Versus

K.P.Rajan SomaiahRespondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the proceedings in C.C.No.1659 of 2017 pending trial on the file of the IV Metropolitan Magistrate (FTC) George Town, Chennai and quash the same.

For Petitioner : Mr.G.Vinod Kumar

ORDER

The petitioners who are the accused 1 and 2 in C.C.No.1659 of 2017, pending trial on the file of the IV Metropolitan Magistrate (FTC) George Town, Chennai for the offence under Section 138 of Negotiable Instruments Act have filed this petition.

2. The first petitioner/A1 is D.J.R.Systems represented by its Proprietor D.Ragunathan and D.Ragunathan is the second petitioner/A2. The gist of the case is that the second petitioner/A2 and the respondent/complainant are known to each other for some time and that the second petitioner has approached the petitioner for hand loan of Rs.3,00,000/- on 10.05.2016. The respondent handed over Rs.3,00,000/- to the second petitioner. Thereafter, to settle the same, the second petitioner had issued a cheque dated 11.05.2017 bearing No.527665. The same was returned on 12.05.2017 with an endorsement 'funds insufficient'. Thereafter, statutory notice was issued to the second petitioner on 26.05.2017, which was received by him 30.05.2017. The second petitioner sent his

reply on 10.06.2017. Since the loan has not been discharged following the statutory proceedings, the complaint came to be lodged.

3. The contention of the learned counsel for the petitioners is that the respondent is a total stranger to the second petitioner. The second petitioner had not received any loan from the respondent. The second petitioner had received a loan of Rs.1,50,000/- from one Ganesan, S/o.Nainar on 10.07.2016. At the time of receiving the loan, he had given two blank cheques bearing Nos.527665 and 527666 as security. Later, he had repaid the entire loan and the said Ganesan did not return the cheques by giving one reason or another. Subsequently, Ganesan through the respondent had lodged a complaint under Section 138 of Negotiable Instruments Act by misusing the Cheque No.527665. Further, Ganesan through one third party, Raman had filed a suit in OS.No.786 of 2021 by misusing the Cheque No.527666. The suit is of the year 2021. The learned counsel submits that the debt is a time barred debt, which is proved through his reply notice dated 10.06.2017. Further submits that cheque has been issued in favour of A2 and not in the name of A1.

4. Considering the submissions and on perusal of materials, it is seen that the point raised by the petitioner is based on the reply notice dated 10.06.2017. However, this Court is of the view that the respondent/complainant had not admitted the reply notice dated 10.06.2017 and hence it becomes a disputed fact, which is to be decided after full fledged trial and not in a quash petition. In view of the same, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mbi
To

1.The IV Metropolitan Magistrate (FTC),
George Town, Chennai.

+1 CC to Mr.G. Vinodh Kumar, Advocate sr 26185.

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AK(CO)
SP(06/07/2021)