



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2021

CORAM :

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

Cr1.O.P.No.3955 of 2017

M.Venkatesan
Prop. Sri Venkatesware Constructions

...Petitioner / Accused

Vs.

R.Vasudevan

...Respondent / Complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to quash the complaint in C.C.No.1102 of 2014 on the file of the learned Fast Track Court - I (Metropolitan Magistrate), Chennai.

For Petitioner : Mr.Prakash Goklaney

For Respondent : Mr.M.Muthusamy

ORDER

This present petition has been filed seeking to quash further proceedings in C.C.No.1102 of 2014 pending on the file of the learned Fast Track Court - I (Metropolitan Magistrate), Chennai.

2. The accused is the petitioner herein. It is pointed out by Mr.Prakash Goklaney, learned Counsel for the petitioner that even according to the respondent, in the notice issued subsequent to dishonour of the cheque, it had been stated that the transactions were of the year 2006 and 2007 and it has been claimed that the cheque had been issued in the year 2013. That particular cheque, when presented for payment, was dishonoured, leading to the filing of a complaint under Section 138 of Negotiable Instruments Act, by following the procedure, as contemplated under Section 200 Cr.P.C.

3. It is stated by Mr.Prakash Goklaney that in the year 2013, the debt was not legally enforceable. However, this is an issue of fact.

4. Since trial has commenced and since evidence of PW.1 had been recorded and the witness had also been partly cross-examined, I would, rather, advise the parties to go back before the Magistrate Court and proceed further with the trial.



5. The petitioner herein had taken a conscious decision to participate in the trial proceedings and it would only be appropriate that this Court also respects such a decision taken by him and permit him to further participate in the trial proceedings.

6. Let trial go on. Let the learned Magistrate record evidence in full and I am confident that sufficient opportunity will be given to the petitioner herein to cross-examine the respondent/PW.1 on all aspects including on the aspect whether the debt was a legally enforceable debt in the year 2013. On the basis of the evidence recorded, let the learned Magistrate pass a judgment on appreciation of evidence.

7. An obligation is placed on the learned Magistrate to dispose of the trial in the said Calendar Case i.e., C.C.No.1102 of 2014 on or before 31.01.2022.

8. With the above said observation, the present Criminal Original Petition is dismissed, however, directing the parties to go back to the Trial Court. Consequently, the connected miscellaneous petitions i.e., CrI.M.P.Nos.2932 and 2933 of 2017 are closed.

Sd/-
Assistant Registrar (CS-VIII)

// True Copy //

Sub Assistant Registrar

grs

To

1.The Metropolitan Magistrate,
The Fast Track Court - I
Chennai.

+1cc to Mr.M.Muthusamy, Advocate SR.No54063

+2ccs to Mr.Prakash Goklaney, Advocate SR.No.53748

CrI.O.P.No.3955 of 2017

BR(CO)
RVM(02/11/2021)