



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.21345 OF 2017

&

CRL.M.P.NOS.12566 & 12567 OF 2017

Marimuthu

...Petitioner/Accused

Vs

M/s.Sree Gokulam Chit and Finance Co.(P) Ltd.,
Represented by its authorized person,
Thiru P.Kaliappan, aged about 33 years,
S/o. Mr.P.Ponnuvel,
II Floor, Ramani Shopping Complex,
Opp. To New Bus Stand, Omalur Main Road,
Salem - 636 004.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the record in S.T.C.No.1572 of 2016 on the file of the learned Judicial Magistrate No.V, Salem and quash the same.

For petitioner : Mr.A.Rajakumar

For Respondent : Mr.L.Rajasekar

O R D E R

This petition has been filed to quash the proceedings against the petitioner under Section 138 of the Negotiable Instruments Act in S.T.C.No. 1572 of 2016 on the file of the learned Judicial Magistrate No.V, Salem.

2. The petitioner has been prosecuted for the offence under Section 138 of the Negotiable Instruments Act. The main contention of the learned Counsel for the petitioner is that having issued a legal notice on 03.04.2013, the complaint has been filed only on 17.04.2014 with an inordinate delay.



Therefore, the complaint itself is not maintainable. Whereas it is the contention of the learned Counsel for the respondent that the complaint has been filed on 15.05.2013 and all the documents also contain the seal of the Court indicating that the complaint has been filed on 15.05.2013. Such being the position, this Court is of the view that merely on the basis of a typed set which is not complete, this Court cannot come to the conclusion that the complaint is barred by limitation. Therefore, the lower Court is directed to look into this aspect if the complaint is filed before the Court only on 17.04.2014 as contended by the accused, then the lower Court shall decide the complaint on limitation issue or if the complaint is filed on 15.05.2013 the lower Court shall decide the case on merits and decide the matter.

3. With the above observations, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed. The accused is directed to appear before the trial Court within two weeks from the date of receipt of a copy of this order and file an application under Section 436 of Code of Criminal Procedure. On such filing of the application, trial Court is directed to release the accused on bail on the same day on executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) each with two sureties. If thereafter, he absconds, a fresh FIR can be registered under Section 229 A of the Indian Penal Code.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

vrc / kbs

To

The learned Judicial Magistrate No.V,
Salem.

+1cc to M/s.L.Rajasekar, Advocate, S.R.No.63259

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RSI (CO)
RLP (20/12/2021)