



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.12.2021

Coram:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CrI.O.P.No.27841 of 2017 &
CrI.M.P.Noss.15847 & 15848 of 2017

A.R.Ravichandran

...Petitioner

Vs

M/s. Magnitude Reality and Probuild Pvt. Ltd.,
Plot No.38, Survey No.91,
Kunnappattu Village, Manamathy Post,
Thiruporur Taluk, Kancheepuram District - 603 105,
Represented by its POA V.Senthil Kumar

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in complaint filed by the respondent/complainant under Section 138 of the Negotiable Instruments Act against the petitioner / accused in C.C.No.5880 of 2015 on the file of the Fast Track Court No.III, Saidapet and quash the same.

For Petitioner : Mr.Premkumar
for Mr.S.Senthil

For Respondent : Mr.Abdul Saleem
for M/s.AAV Partners

O R D E R

This petition has been filed to quash the private complaint filed in C.C.No.5880 of 2015 on the file of the Fast Track Court No.III, Saidapet for the offence under section 138 of Negotiable Instruments Act.

2. The brief facts of the case is as follows : The petitioner has agreed to sell around 38 acres of land in Kunnappattu and Mamalapuram Villages and received a sum of Rs.23 crores from the complainant. However, he has failed to honour his commitment. Thereafter, the petitioner issued a cheque dated 10.12.2012 drawn on Axis bank, Mylapore Branch for a sum of Rs.14,67,00,000/- in favour of the complainant. When the cheque was presented for encashment, the same has been dishonoured for insufficient funds. After complying the statutory conditions and issuing a demand notice, the present complaint has been lodged.



3. This petition has been filed to quash the above complaint on the ground that the cheque was issued only towards security and not issued for any illegally enforceable debt. Therefore, the same cannot be enforced. Further, the post dated cheques have not been issued for any legally enforceable debt. Therefore, the entire complaint has to be quashed.

4. At the outset, this Court is not able to countenance the submission of the learned counsel for the petitioner. Whether there is a legally enforceable debt or not is a matter of evidence and it has to be tested before the trial court. The burden to dislodge the legal presumption lies on the petitioner. He has to probabalize his case before the trial Court and not before this Court. In such view of the matter, I do not find any merits in the petition filed to quash the proceedings.

5. Accordingly, 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. The trial Court is directed to dispose of the case in C.C.No.5880 of 2015 expeditiously within a period of three months from the date of receipt of a copy of this Order.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vrc/kbs

To

The Presiding Officer,
Fast Track Court No.III,
Saidapet, Chennai.

+1cc to M/s.AAV Partners, Advocate, S.R.No.63269

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GPL[co]
NSK 05/01/2022