



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2021

CORAM :

THE HONOURABLE Mrs. JUSTICE R. HEMALATHA

Crl.O.P.(MD)No.4427 of 2021
and
Crl.M.P(MD)No.2484 of 2021

S.A.Rajendran

... Petitioner

Vs.

K.M.Sakthivel

... Respondent

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in S.T.C No.7 of 2021 on the file of the Judicial Magistrate, Fast Track Court, Theni and quash the same.

For Petitioner : Mr.C.Jeganathan

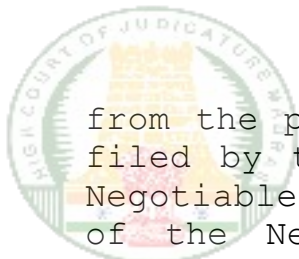
ORDER

The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, seeking to quash the proceedings in STC No.7 of 2021 on the file of the Judicial Magistrate, Fast Track Court, Theni.

2.Mr.C.Jeganathan, learned counsel for the petitioner contended that since he lodged a complaint, dated 29.06.2020 with the Inspector of Police, Anti Land Grabbing Cell, Theni, contending that the cheque bearing No.000217 was taken away by one Navaneedha Krishnan, the private complaint filed by the respondent for the offences punishable under Sections 138 read with 142 of the Negotiable Instruments Act, against the petitioner, is highly improbable.

3.A perusal of the complaint shows that the petitioner borrowed a sum of Rs.6,00,000/- (Rupees Six Lakhs) from the respondent / defacto complainant and also issued a cheque dated 23.10.2020, drawn on Karur Vysya Bank, Theni, for a sum of Rs.6,00,000/-. When the cheque was presented by the defacto complainant for encashment, the same was returned for the reason "insufficient funds". The original cheque issued by the present petitioner was also filed along with the complaint. Merely because the petitioner lodged a complaint with the police

<https://hcservices.mca.gov.in/hcservices/> one Navaneedha Krishnan took the impugned cheque



from the petitioner, it cannot be held that the private complaint filed by the respondent under Sections 138 read with 143 of the Negotiable Instruments Act, is not maintainable. As per Section 118 of the Negotiable Instruments Act, there is a presumption in favour of the holder of a cheque until the contrary is proved. Therefore, there is no valid ground for quashing the proceedings in STC.No.7 of 2021.

4. Accordingly, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned

TO

The Judicial Magistrate, Fast Track Court, Theni

Crl.O.P. (MD) No.4427 of 2021
23.03.2021

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