



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.04.2021

CORAM :

THE HONOURABLE **Mr. JUSTICE G.ILANGO VAN**

CrI.O.P.(MD)Nos.5163 and 5165 of 2021

and

CrI.M.P(MD)Nos.2963, 2964, 2966 and 2967 of 2021

A.Veerapandian

... Petitioner in both petitions
Vs.

M.Sarbudeen

... Respondent in both petitions

Common Prayer : Criminal Original Petitions filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the proceedings in S.T.C.Nos.791 and 792 of 2016 pending on the file of the learned Judicial Magistrate, Thiruvadanai and quash the same.

For Petitioner : Mr.R.Manickam
(in both petitions)

COMMON ORDER

These petitions are filed seeking quashment of the proceedings in S.T.C.Nos.791 and 792 of 2016 pending on the file of the learned Judicial Magistrate, Thiruvadanai.

2.The case of the respondent before the trial Court is that he entered into a lease agreement with this petitioner on 25.07.2012 in respect of a non-residential property for running a hotel and also paid a sum of Rs.15,00,000/- as lease amount. But later, he could not run the hotel. So, the lease was cancelled on 14.12.2012. Out of Rs.15,00,000/-, Rs.5,00,000/- was paid by this petitioner and for the remaining amount, he issued two cheques bearing No.667983, dated 05.05.2013 and 667984, dated 20.05.2013, which were drawn on Dhanalakshmi Bank, Ashok Nagar Branch, Chennai. The respondent deposited the said cheques for encashment through Union Bank of India, Nambuthalai Branch, Ramanathapuram District. But they were returned with an endorsement "insufficient funds". Legal notice was also issued to the petitioner on 23.05.2013. In spite of that there was no further payment. So, based on this allegation, the respondent filed two cases, which are taken on file as S.T.C.Nos.791 and 792 of 2016. Seeking quashment of these two petitions, the



petitioner has filed two separate petitions.

3.The main ground on which, quashment is sought is that the blank cheques were issued by the petitioner only as security and the transaction is only with regard to the business and so, no offence under Section 138 of Negotiable Instruments Act is attracted. The issue of the cheques is admitted by the petitioner and whether those cheques were issued as security for the repayment of the lease amount or not cannot be a matter for discussion in these petitions. The materials have to be decided only during the time of trial. Except these factual aspects, no other legal aspect has been argued by the learned counsel for the petitioner.

4.I am of the considered view that this Court finds no reason to interfere with the proceedings before the trial Court.

5.The learned counsel for the petitioner submitted that the petitioner is suffering from liver failure and he is not in a position to travel from one place to another place, he also produced two documents to prove the same.

6.Considering the physical condition of the petitioner, the personal appearance of the petitioner before the trial Court is dispensed with on condition that he must appear before the trial Court within a period of fifteen days from the date of receipt of a copy of this order, filing an affidavit with his attested photo undertaking that he will appear before the concerned Court, as and when required.

7.Accordingly, the Criminal Original Petition is dismissed with a direction to the learned Judicial Magistrate, Thiruvadanai, to expedite the trial and complete the same within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions Crl.M.P.(MD)Nos.2963 and 2966 of 2021 are closed and Crl.M.P.(MD)Nos.2964 and 2967 of 2021 are ordered.

Sd/-

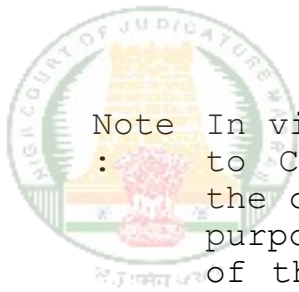
Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj i



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, Thiruvadanai

**Crl.O.P. (MD) Nos.5163 and 5165 of 2021
09.04.2021**

KK(26.05.2021) 3P 2C