



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CrI.O.P.(MD)No.10948 of 2021

and

CrI.M.P.(MD)No.5590 of 2021

WEB COPY

1.M/s. Nithyasri Marketing,
A Partnership Firm
represented by its,
Managing Partner G.SESHAN,
No.25, Vaithiyanatha Iyer Street,
Shenoy Nagar, Madurai - 625 020.

2.G.SESHAN,
S/o.R.Govindan,
Partner - M/s. Nithyasri Marketing,
Plot No.80, K.V.R.Nagar,
Mahalakshmi Nagar Extension,
K.Pudur, Madurai.

... Petitioners /
Accused Nos.1& 2

Vs.

Crompton Greaves Consumer Electricals Limited,
Crompton House,
No.3, Dr.M.G.R.Salai,
Nungambakkam, Chennai - 600 034.
Represented by its Legal & Administrative Manager,
D.Rajesh

... Respondent /Complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C,
to set aside the order dated 16.04.2021 passed by the learned
Judicial Magistrate No. I (Fast Track Court at Magisterial Level)
Madurai District on a memo filed by the complainant in S.T.C.No. 70
of 2015.

For Petitioners : Mr.R.Anand
For Respondent : Mr.Hemant Deswani

O R D E R

The accused are facing trial in S.T.C.No.70 of 2015 on the file
of learned Judicial Magistrate No.1 (Fast Track Court at Magisterial
Level) Madurai District. They have filed this Criminal Original
Petition questioning the order passed by the said Magistrate,
transferring the case to Fast Track Court No. I, Egmore, Allikulam
Complex, Chennai.



2. The learned counsel appearing for the petitioners reiterated all the contentions set out in the memorandum of grounds. He would state that the third accused, namely, the wife of the second petitioner herein filed a petition to quash the proceedings before this Court and the same was also allowed.

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3. Earlier, the petitioners herein along with the third accused namely, Shiyamala, wife of the second petitioner filed Crl.O.P.(MD) No. 8534 of 2017 for quashing the proceedings in S.T.C.No.70 of 2015. The said Criminal Original Petition was partly allowed. The proceedings were quashed only in respect of the third accused, namely, S.Shiyamala. While doing so, the learned Judicial Magistrate No. I (Fast Track Court at Magisterial Level) Madurai District, was directed to complete the proceedings within two months from the date of receipt of a copy of the said order.

4. The contention of the learned counsel is that this direction cannot be circumvented by transferring the case bundle to Chennai. He would state that if this Court would take a different view, that will amount to reviewing the direction given by this Court vide order dated 04.09.2019 in Crl.O.P.(MD)No.8534 of 2017.

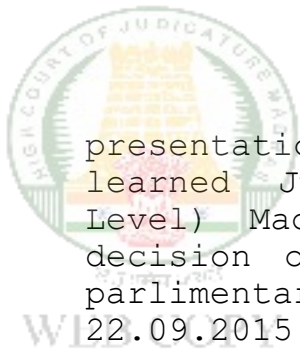
5. The learned counsel also drew my attention to Section 322 Cr.P.C. As per the said provision, if the Magistrate comes to conclusion that he has no jurisdiction to try the case, he can only submit a report to the Chief Judicial Magistrate setting out the position. According to him, the learned Magistrate lacked the jurisdiction to pass an order of this nature. He would also state the impugned order has been passed on the strength of the memo filed by the proposed complainant. The petitioner is having serious doubts regarding the *locus standi* of the proposed complainant. For all these reasons, according to the learned counsel, the impugned order is liable to be set aside.

6. Per contra, the learned counsel appearing for the respondent submitted that the impugned order does not call for any interference.

7. I carefully considered the rival contentions and went through the impugned order in full.

8. The respondent herein had originally filed a complaint only before the XVIII Metropolitan Magistrate, Saidapet, Chennai. The cheque in question was presented for collection by the respondent in the account maintained by them in the Corporation Bank, Chennai Caps Branch, No.27 Whites Road, Chennai.

9. In view of the judgment of the Honourable Supreme Court reported in **(2014) 9 SCC 129, Dashrath Rupsingh Rathod v. State of Maharashtra**, the case bundle was returned to the complainant for re-



presentation before the concerned Court at Madurai. That is how the learned Judicial Magistrate No. I (Fast Track Court at Magisterial Level) Madurai District, came to entertain the complaint. The decision of the Honorable Supreme Court was set at naught by a parliamentary amendment by incorporating Section 142(A), on 22.09.2015. In the same breadth, Section 142 was also amended. Section 142(2) reads as under:

"142(2):- The offence under Section 138 shall be inquired into and tried only by a Court within whose local jurisdiction, -

(a) if the cheque is delivered for collection through an account, the branch of the bank where the payee or holder in due course, as the case may be, maintains the account, is situated; or

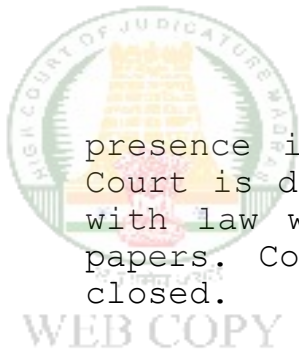
(b) if the cheque is presented for payment by the payee or holder in due course, otherwise through an account, the branch of the drawee bank where the drawer maintains the account, is situated."

Section 142-A(1) reads as under:-

"142-A(1):- Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or any judgment, decree, order or direction of any Court, all cases transferred to the Court having jurisdiction under sub-section (2) of section 142, as amended by the Negotiable Instruments (Amendment) Ordinance, 2015 (6 of 2015), shall be deemed to have been transferred under this Act, as if that sub-section had been in force at all material times."

10. The impugned order passed by the Court below merely gives effect to the statutory mandate set out in Section 142(A)(1) of the Negotiable Instrument Act. Therefore, the impugned order does not call for any interference. All the other contentions of the petitioners are left open. Accordingly, this Criminal Original Petition is dismissed.

11. Considering the over all facts and circumstances, the personal appearance of the second petitioner before the Court below is dispensed with. However, the second petitioner will have to be represented at all times through his counsel. If the counsel also fails to appear, the benefit of this order stand withdrawn. The second petitioner has to appear on all those occasions, when his



presence is insisted upon by the Court below. The jurisdictional Court is directed to conclude the trial on merits and in accordance with law within a period of six months after receipt of the case papers. Consequently, the connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

mga/csm

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

Judicial Magistrate No. I (Fast Track Court at Magisterial Level)
Madurai District

Copy to

The Registrar Judicial,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.HEMANTH DESWANI, Advocate (SR-34312[F] dated
12/11/2021)

Crl.O.P. (MD)No.10948 of 2021
and

Crl.M.P. (MD)No.5590 of 2021
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DKS (CO)
KB(03.12.2021) 4P 4C