



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2021

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.16595 of 2021

and

Crl.M.P. (MD)No.8954 of 2021

R.Subramanian

... Petitioner/
Respondent

Vs.

B.Rajendran

... Respondent/
Complainant

Prayer : Criminal Original Petition is filed under Section 482 Cr.P.C., to call for records in connection with the complaint in S.T.C.No.688 of 2018 on the file of the Judicial Magistrate No.I, (Fast Track Court), Madurai and quash the same.

For Petitioner : Mr.K.Muraleedharan

For Respondent : Mr.R.Venkatesalu

ORDER

Heard the learned counsel on either side.

2. The petitioner is facing trial in S.T.C.No.688 of 2018 on the file of Judicial Magistrate No.I, (Fast Track Court), Madurai. The respondent herein has instituted a private complaint against the petitioner for the offence under Section 138 of Negotiable Instruments Act, 1881. Section 138(b) of Negotiable Instruments Act, 1881 reads as follows:

"138.(b) the payee or the holder in due course of the cheque, as the case may be, makes a demand for the payment of the said amount of money by giving a notice in writing, to the drawer of the cheque, [within thirty days] of the receipt of information by him from the bank regarding the return of the cheque as unpaid;"

3. In this case, the notice was not issued within 30 days from the date of the cheque dishonoured. The cheque was dishonoured on 07.06.2018. The statutory notice was issued on 28.08.2018. Since the issuance of notice is not in consonance with the statutory procedure, the Court below could not have taken cognizance of the offence. The impugned proceedings stands quashed. This Criminal



Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

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/ /2022

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

1.Judicial Magistrate No.I, (Fast Track Court),
Madurai.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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and
CrI.M.P.(MD)No.8954 of 2021
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MGJ(10.01.2022) 2P 3C