



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 26.11.2021

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Crl.OP(MD)No.7235 of 2017

and

Crl.M.P. (MD)No.4923 of 2017

S.Babuji

... Petitioner/Respondent
Vs.

K.Govindarajan

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the entire records in S.T.C.No.279 of 2017, on the file of the Judicial Magistrate Court, Thriuvaiyaru, Thanjavur District, and quash the same.

For Petitioner : Mr.N.Mohideen Bahsa
For Respondent : Mr.A.Sivasubramanian

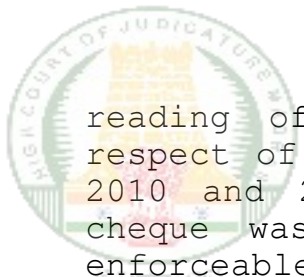
ORDER

This Petition is filed to quash the complaint filed under Section 138 of the Negotiable Instruments Act, on the short point that even according to the complainant, the cheque was given in prompt repayment of the amount borrowed by the petitioner from the complainant promising to get a job to his daughter in Annamalai University.

2.According to the learned counsel for the petitioner, the case of the complainant is that, a sum of Rs.20,30,000/- was received by the petitioner herein from the complainant promising to get a job to his daughter in Annamalai University. However, having failed to get the job, the subject cheque was given and the cheque bounced without honouring. It is submitted by the learned counsel for the petitioner that on the face of the complaint, it appears that it is illegal contract for securing job on payment of money and therefore, being a contract not enforceable under the law, the cheque given will not attract the offence under Section 138 of the Negotiable Instruments Act. Further, the learned counsel for the petitioner submitted that the period of transaction was between the year 2010 and 2012, whereas the date of cheque is 16.02.2017, therefore, it is barred by limitation.

3.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

4.This Court on considering the averments made in the complaint as well as the judgments circulated by the learned counsels appearing for the respective parties, is of the opinion that a plain



reading of the complaint though sounds the transaction was in respect of securing a job and the transaction was between the year 2010 and 2012, the factum of the circumstances under which the cheque was issued and whether it is issued for any legally enforceable debt or not, to be tested in the course of trial. Hence, without prejudice to the right of the petitioner herein, to canvass this point before the trial Court, this Criminal Original Petition is dismissed with direction to the trial Court to complete the trial within a period of four months from today. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

smn2

To

The Judicial Magistrate,
Thiruvaiyaru,
Thanjavur District.

COPY TO:

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

+1 CC to M/s.A.SIVASUBRAMANIAN, Advocate (SR-36320[F] dated 29/11/2021)

Cr1.OP(MD)No.7235 of 2017
26.11.2021

SK(CO)

GC(02.12.2021) 2P 4C