



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2022

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.5639 of 2022

Surendra Tatia

... Petitioner/Complainant

Vs.

1.M/S.Surien Pharmaceutical Pvt ltd.,
Represented by Managing Director Mr.Ramasamy Krishnamurthy,
No.108, Chekkadi Street,
Kovur,
Chennai 602 101.

2.Mr.Ramasamy Krishnanmurthy

3.Mrs.Gowri Krishnamurthy

4. Mr.Chathurappan Anbalhagan

...Respondents

PRAYER: The Criminal Original Petition is filed under Section 482 of Code of Criminal Procedure, to set aside the order dated 11.02.2022 passed in SR.No.152 of 2022 on the file of the learned Judicial Magistrate, Fast Track Court, Poonamallee as illegal and consequently direct the learned Judicial Magistrate, Fast Track Court, Poonamallee to take cognizance for all cheques in SR No.152 of 2022.

For Petitioner : Mr.Om Sai Ram

For Respondents : No appearance

O R D E R

This Criminal Original Petition has been filed to set aside the order dated 11.02.2022 passed in SR.No.152 of 2022 on the file of the learned Judicial Magistrate, Fast Track Court, Poonamallee as illegal and consequently direct the learned Judicial Magistrate, Fast Track Court, Poonamalle to take cognizance for all cheques in SR No.152 of 2022.



2. The case of the petitioner is that he had filed a private complaint under Section 138 of NI Act in respect of the following cheques:

DETAILS OF CHEQUE

S.No	DATE	DESCRIPTION OF DOCUMENTS	AMOUNT
1.	15.10.2021	Cheque No.382734 drawn on SBI, SME Branch, Ambattur Industrial Estate Branch, Chennai 58.	Rs.1,69,132/-
2.	27.10.2021	Cheque No.382891 drawn on SBI, SME Branch, Ambattur Industrial Estate Branch, Chennai 58.	Rs.1,00,447/-
3.	27.11.2021	Cheque No.557302 drawn on SBI, SME Branch, Ambattur Industrial Estate Branch, Chennai 58.	Rs.1,00,000/-
4.	29.11.2021	Cheque No.557303 drawn on SBI, SME Branch, Ambattur Industrial Estate Branch, Chennai 58.	Rs.1,00,198/-
		TOTAL	Rs.4,69,777/-

3. It is the further case of the petitioner that since banks were closed on account of strike on 27.11.2021 and 28.11.2021, he had deposited the cheques in the drop box on 26.11.2021 and the cheques were sent for collection on 29.11.2021 by the bankers and it is also reflected in the return memos filed along with the complaint. However, learned Magistrate erroneously finding that two cheques had been presented even prior to the date of the cheques, had refused to take cognizance in respect of cheque No.557302 dated 27.11.2021 and cheque No.557303 dated 29.11.2021 against which, the present petition has been filed.

4. The learned counsel for the petitioner would submit that the respondent had issued four cheques as stated supra. Since the banks were closed on account of strike on 27.11.2021 and 28.11.2021, the cheques were dropped in the bank's drop box on 26.11.2021. It is also clearly shown that the cheques were sent for collection by the Banker of the complainant only on 29.11.2021 on which date, both cheques fell due. Clearance was also done through online and only on the date when the cheque was sent to the bank for collection has been construed as date of presentation. Further, the cheques have been returned stating reason as "insufficient fund" and not stating reason "premature presentation". In such circumstances, the order of the learned Judge refusing to take cognizances in respect of cheque No. 557302 dated 27.11.2021 and cheque No. 557303 dated 29.11.2021 has to be set aside. All the cheques including cheques in question were sent for encashment by the banker only



on 29.11.2021.

5. Heard the learned counsel appearing for the Petitioner and perused the materials available on record, including return memos issued by the bank.

6. It is the case of the petitioner that the cheques were dropped in the drop box of the bank on 26.11.2021. However, they have been sent for encashment through online only on 29.11.2021. It is also proved by the return memos. Further, the cheques have not been returned stating that they were prematurely presented but they have been returned stating the reason that "insufficient fund" only.

7. Further, the petitioner had substantiated his arguments, by filing the return memos as required under Section 146 of NI Act. In view of the above, the order passed by the learned Judicial Magistrate, Fast Track Court, Poonamallee, dated 11.02.2022, in SR.No.152 of 2022 is set aside and the learned Magistrate is directed to take cognizance in respect of all the four cheques.

8. With the above observation and direction, this Criminal Original Petition stands disposed of.

Sd/-

Assistant Registrar(CS-VII)

//True copy//

Sub Assistant Registrar

shk/sai

To

The Judicial Magistrate,
Fast Track Court, Poonamallee

+1cc to Mr.Om Sai Ram, Advocate SR.No.16984

Crl.O.P.No.5639 of 2022

RSI (CO)
GMY (28/03/2022)