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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2022

CORAM :

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No. 15103 of 2020
and Crl.M.P.Nos.5746 & 5747 of 2020

M.Murugan

... Petitioner

Versus

Sri Gokulam Chit & Finance Pvt.Ltd
Udumalaipettai Branch
Represented by its Commercial Manager
and also Power Agent
Mr.V.Prabhu, S/o.Vijayan
No.100, NSG Complex
Udumalaipettai Town, Pazhani Road
Tiruppur District.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records relating to S.T.C.No.683/2019 on the file of the Judicial Magistrate Court I, Udumalaipet and quash the same.

For Petitioner : Mr.A.Balasingh Ramanujan for
Mr.D.Nellaippan

ORDER

This Criminal Original Petition has been filed to quash the complaint in S.T.C.No.683/2019 on the file of the Judicial Magistrate Court I, Udumalaipet.

2. The petitioner is the sole accused in the complaint lodged by the respondent alleging that the petitioner is a subscriber of chit under ticket No.KDM/04 and in group G2J/1194 conducted by the respondent. The value of the chit is Rs.10,00,000/- (Rupees Twenty Five Lakhs only) and the monthly chit amount is Rs.50,000/- and the period of the chit is 20 months. Further, the petitioner was a successful bidder and received an amount of Rs. 7,45,674/- and as a security for payment, a promissory note was issued in favour of the respondent company. Subsequent to the developments, the petitioner is said to have issued a cheque to the respondent as security for payment of the accepted amount. However, when the



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cheque was presented for clearance, the same was dishonoured. Hence, a complaint under Section 138 of the Negotiable Instruments Act was lodged before the Sub-Inspector of Police, Crime Udumalaipet City Police Station. Challenging the said complaint, this Criminal Original Petition.

3. The petitioner is the sole accused in the complaint lodged by the respondent chit company raising a ground that when there is a dispute between the subscriber and the chit company, the matter has to be referred to the Registrar of Chit for Arbitration. Further, the cheque was presented as security to the respondent in payment of the chit amount received by the petitioner.

4. The proceedings under Section 138 of the Negotiable Instruments Act cannot be quashed under Section 482 of the Cr.P.C. merely on the ground that cheques were issued as security. It is a matter of defence to be established by the petitioner. A clear decision to this effect can be taken only after appreciation of evidence. At the threshold and in the absence of any evidence, the complaint cannot be quashed. That apart, all the grounds raised are maximum question of facts and the same cannot be considered

5. That apart, a petition has been filed and at the request of the petitioner, it was adjourned. Further, the petitioner did not take any steps to list the matter even after admission. Therefore, this Court finds no merits to quash the complaint in S.T.C.No.683/2019 and accordingly, this criminal original petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

dhk

To

1. The Judicial Magistrate - I
Udumalaipet.
2. The Chief Judicial Magistrate,
Udumalaipet.



3. The Public Prosecutor
Madras High Court, Chennai.

+1cc to Mr.D.Nellaippan, Advocate SR.No.36675

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SSI (CO)
GMY (01/07/2022)