



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.01.2022

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No. 17365 of 2018

Crl.M.P.No.8984 of 2018

1.Aavin Corner,  
Rep.by its Proprietrix,  
N.Amirthakumari,  
No.14/8, Veeraraghavan Street,  
Srinivasa Nagar, Perungulathur,  
Chennai-600063.

2.N.Amirthakumari

...Petitioners/Accused 1 & 2

Versus

M/s.Reliance Commercial Finance Ltd,  
Formerly Known as  
M/s.Reliance Capital Ltd,  
rep. by Deputy Manager,  
Mr.R.Kumaran,  
No.10A, Haddows Road,  
Numbambakkam, Chennai-600006.

...Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to C.C.No.4792 of 2018, on the file of the Fast Track Court III Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioners : Mr.P.Tamilavel

O R D E R

This Petition has been filed to quash the proceedings in C.C.No.4792 of 2018, filed against the accused for the offence under Section 138 of the Negotiable Instruments Act, on the file of the Fast Track Court III Metropolitan Magistrate, Saidapet, Chennai.

2. The case of the complainant is that the petitioner along with other obtained loan under the scheme of BL. They had also entered into under Agreement No.RLBLCHE000008488 and also issued a cheque dated 24.03.2018 drawn on Indian Overseas Bank, G.S.T Road, Perungalathur-600063. When the cheque was presented for



encashment, the same was dishonoured for insufficient funds. After, issuing statutory notice proceedings were initiated under Section 138(b) of Negotiable Instruments Act. The same was sought to be quashed mainly on the ground that the amount has been borrowed in the year 2007 and the same was discharged in the year 2011. It is his contention that the RBI issued a circular in the year 2011 to the effect that the cheque has to be only in Cheque Truncation System (CTS) and Image Based Clearance System (IBCS). Whereas, the cheque in question was issued long back and hence, the same is barred by limitation. Therefore, the proceedings initiated against the petitioner is sought to be quashed.

3. At the outset, I am unable to persuade myself with the contention of the learned counsel for the petitioner. His contention is that the very allegation in the complaint indicate that at the time of issuing the cheque, blank cheque has been issued and it must be treated as the bill of exchange. Therefore, the question of limitation does not arise at all. Whether cheque was issued for encashment, is a matter of evidence and the same has to be proved by the petitioner. That apart onus lies on the petitioner to discharge the legal presumption available under Section 118 and 139 of the Negotiable Instruments Act by adducing a sufficient evidence before the trial Court. In such view of the matter, this Court is not inclined to quash the proceedings.

4. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

psa/ggs

To

1.The Fast Track Court III Metropolitan Magistrate,  
Saidapet, Chennai.

2.-do- through The Chief Metropolitan Magistrate,  
Egmore, Chennai.

Cr1. O.P. No. 17365 of 2018

KG (CO)  
PR (11/03/2022)