



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

CRL.O.P.NO.13259 OF 2022

AND

CRL.M.P.NOS.7118 AND 7116 OF 2022

Sankar,

...Petitioner

Vs.

Shiek Ansar

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for records and quash the CC No.132 of 2019 on the file of the Judicial Magistrate Kallakuruchi.

For Petitioner : Mr.M.Devaraj

ORDER

This petition has been filed to call for the records in C.C. No.132 of 2019 on the file of the Judicial Magistrate Kallakuruchi and quash the proceedings initiated under Section 138 of Negotiable Instruments Act.

2.The only ground raised by the learned counsel for the petitioner is that the cheque was dated in the year 2018 for the debt issued in the year 2013. Therefore, it is the contention of the petitioner that the time barred claim is not a legally enforceable debt. In support of his contention, the learned counsel relied upon the judgment of this Court in 2019 STPL 9359 Madras in Crl.O.P.No.17803 of 2014 dated 07.03.2019 in Insulation House., Rep. by Meenakshi Davey and others v. Pramod Kumar Daga.

3. The learned single Judge who has passed the above judgment relying upon the other judgment of this Court in Sama Dharman and Another vs. S. Natarajan in Crl.O.P.(MD) No.3824 of 2012 dated 25.07.2012. It is also relevant to note that challenging the above order an appeal was filed before the Honourable Apex Court. The Honourable Apex Court in S. Natarajan vs. Sama Dharman and another [(2021) 6 SCC 413] allowed the appeal and set aside the Judgment. Therefore, the judgment in Crl.O.P.No.17803 of 2014 (supra) is no longer good law.



4. In such view of the matter, I do not find any merit in this petition. Once the cheque is issued and got dishonoured and statutory notice is issued, it is for the accused to dislodge the legal presumption available u/s.118 and 139 of Negotiable Instruments Act. Whether the cheque in question has issued for the time barred debt or not itself is the matter for evidence and that cannot be adjudicated before this Court.

5. Subject to the above observation, this Criminal Original Petition stands dismissed. The learned trial Judge is directed to dispose of the matter at the earliest. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IV)

// True Copy //

Sub Assistant Registrar

kas/ggs

To.

The Judicial Magistrate
Kallakuruchi.

+1cc to Mr.M.Devaraj, Advocate Sr.No.34423

Crl.O.P.No.13259 of 2022
& Crl.M.P.Nos.7118 &7116/2022

VG-II (CO)
RVM(29/06/2022)