



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 05.01.2022

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CrI.O.P.No.20123 of 2017

&

CrI.M.P.Nos.12118 and 12119 of 2017 and 12704 of 2018

A.J.Seetharaman
S/o.Jambulingam

... Petitioner/Accused

Vs.

M.V.Bhavani Shankar ... Respondent / Complainant

Prayer: Original Petition filed under Section 482 Cr.P.C to call for the records relating to C.C.No.85 of 2008 on the file of the Principal District Munsif-cum-Judicial Magistrate, Vandavasi and quash the same.

For Petitioner : Mr.V.Parthiban
for Mr.A.Ilayaperumal

For Respondent : No appearance

ORDER

This petition has been filed to quash the proceedings initiated against the petitioner under Section 138 of the Negotiable Instruments Act in C.C.No.85 of 2008 on the file of the Principal District Munsif-cum-Judicial Magistrate, Vandavasi on the ground that notice has not been issued in time after dishonour of the cheque, whereas in the rejoinder, certain factual aspects have been introduced and rejoinder was given only on 01.11.2008. In such view of the matter, initiation of the complaint based on such rejoinder notice dated 01.11.2008 is not according to law and hence, entire complaint is liable to be quashed.

2. The crux of the pleadings in the complaint is that the petitioner/accused owe a sum of Rs.15 lakhs in respect of the agreement entered into between the parties and he issued a cheque drawn on State Bank of India, Porur Branch. When the said cheque was presented for encashment by the complainant, it was dishonoured for the reason 'insufficient funds'. Dishonour was intimated to the petitioner and after receipt of such communication, he issued a notice stating that a rejoinder was given by the petitioner with false allegations.

3. It is the main contention of the learned counsel for petitioner that in the rejoinder, new facts were sought to be introduced and in the legal notice, it is stated that only hand loan has been received. Therefore, the rejoinder alone to be construed as legal notice which was issued beyond the



period of one month. Hence, the entire complaint is sought to be quashed.

4. At the outset, I am unable to persuade myself with the contention raised on behalf of the petitioner. The legal notice was issued immediately within one month after dishonour of the cheque. Though it is stated that amount has been borrowed as hand loan, it was repudiated by way of reply wherein the petitioner/accused came with the claim that there were agreements only after rejoinder was issued admitting certain transaction and nature of agreements. Therefore, at no stretch of imagination, such factual aspects introduced later cannot be construed to mean that only rejoinder is the notice issued for dishonour of cheque.

5. In such view of the matter, this Court is of the view that there is no merit in the petition and this petition is liable to be dismissed. It is for the petitioner to take all his legal defence before the trial Court and to discharge the legal presumption attached to the cheque.

Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

gpa/gba
To

The Judicial Magistrate
Vandavasi.

+1 cc to Mr.Elayaraja, Advocate Sr.NO.1182

+1 cc to Mr.A.Ilayaperumal, Advocate Sr.NO. 592

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MG (CO)

A.SK(21.01.2022)