



BEFORE THE MADURAI BENGH OF MADRAS HIGH COURT

DATED: 25.02.2022

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD)No.992 of 2020

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1.M/s.Landmark Housing Projects Chennai
Private Limited,
Represented by its Managing Director,
T.Udayakumar.

2.T.Udayakumar

... Petitioners

Vs.

Devsahayam Ashokan @ Dev Ashokan

... Respondent

Prayer: Criminal Original Petition filed under Section 407 Cr.P.C., to withdraw case in S.T.C.No.610 of 2019 pending on the file of the learned Judicial Magistrate, Kodaikanal and to transfer the same to the file of any competent Metropolitan Magistrate Court at Saidapet, Chennai.

For Petitioners	: Mr.A.Saravanan
For Respondent	: No appearance

ORDER

This petition has been filed for transfer of S.T.C.No.610 of 2019 from the file of the learned Judicial Magistrate, Kodaikanal to the file of any competent Metropolitan Magistrate Court at Saidapet, Chennai.

2.The respondent lodged a complaint against the petitioners and the same has been registered in Crime No.208 of 2018 on the file of the Inspector of Police, Perungudi Police Station. In pursuant to the said complaint, the petitioners had entered into a Memorandum of Understanding (MOU) to cancel the booked villa and repay the money paid. On the basis of MOU, the petitioners had issued three cheques in favour of the respondent. On instruction, the respondent presented the cheques for collection and the same was returned dishonoured for the reason that the 'funds insufficient'. After causing statutory notice, the respondent lodged complaint before the learned Judicial Magistrate, Kodaikanal for the offence punishable under Section 138 of the Negotiable Instruments Act against the petitioners in S.T.C.No.610 of 2019 before the learned Judicial Magistrate, Kodaikannal, alleging that the respondent purchased row house villa from the petitioners located at Palavakkam and booked a plot and paid a sum of Rs.4,95,00,000/- (Rupees Four crores and ninety five lakhs only). After receipt of the money, the petitioners failed to execute the construction or sale deed.



3.Heard the learned counsel appearing for the petitioners.

4.Though notice served on the respondent and entered appearance through counsel, neither the counsel nor the respondent appeared before this Court today.

5.On a perusal of the materials available on record, it is seen from the averments made in the complaint that the entire transaction took place at Chennai and the Memorandum of Understanding is also executed at Chennai. The petitioners and the respondent are residing at Chennai and the alleged cheques were also issued at Chennai. However, the alleged cheques were presented at Kodaikanal. The transaction of Kodaikanal is no way connected with the transaction and also the residents of the petitioners as well as the respondent herein. In fact, the respondent has no permanent address at Kodaikanal, whereas the respondent presented the cheques at ICICI Bank, Kodaikanal Branch by showing a permanent address and preferred the present complaint before the learned Judicial Magistrate at Kodaikanal. Similarly, the respondent's daughter also has presented a cheque in the same transaction against the petitioners before the Judicial Magistrate Court, Kodaikanal and the same has been taken cognizance in S.T.C.No.206 of 2019. The petitioners herein also filed transfer petition before this Court in Crl.O.P(MD)No.12223 of 2019 seeking to withdraw S.T.C.No.206 of 2019 from the file of the learned Judicial Magistrate, Kodaikanal and to transfer the same to the file of any Metropolitan Magistrate Court at Saidapet, Chennai. This Court, by an order, dated 01.11.2019 in Crl.O.P(MD)No.12223 of 2019 allowed the petition and transferred S.T.C.No.206 of 2019 to the file of the learned XVII Metropolitan Magistrate, Saidapet, Chennai. Aggrieved by the same, the respondent filed a Special Leave Petition before the Honourable Supreme Court of India. By an order, dated 17.12.2019, the Honourable Supreme Court of India dismissed the Special Leave Petition.

6.In view of the above, this Court deems it fit to withdraw the case pending on the file of the learned Judicial Magistrate, Kodaikanal in S.T.C.No.610 of 2019 and transferred the same to the file of the learned XVII Metropolitan Magistrate, Saidapet at Chennai. The learned Judicial Magistrate, Kodaikanal is directed to transfer the entire case bundle forthwith in S.T.C.No.610 of 2019 to the file of the learned XVII Metropolitan Magistrate, Saidapet at Chennai. On receipt of the same, the learned XVII Metropolitan Magistrate, Saidapet at Chennai, is directed to issue notice to the petitioners and the respondent and complete the trial within a period of six months from the date of receipt of a copy of this order.



7. With the above direction, this Criminal Original Petition is allowed.

Sd/-
Assistant Registrar (CS III)

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/ /2022
Sub Assistant Registrar (CS)

ps

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1. The Judicial Magistrate,
Kodaikanal.
2. The XVII Metropolitan Magistrate,
Saidapet,
Chennai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.RAMESH, Advocate (SR-8789[F] dated 25/02/2022)

Order made in
Crl.O.P (MD) No. 992 of 2020
25.02.2022

MK/08.03.2022/3P/5C