



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD) No.6240 of 2022

WEB COPY

S.Saraswathi

...Petitioner/Complainant

Vs.

M.Ramesh @ M.Rajmanickam

...Respondent/Accused

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records pertaining to the docket order dated 07.03.2021 in F.No.Crl.M.P.No.237 of 2022 on the file of Learned Judicial Magistrate No.I, Trichy and set aside the same consequently direct the Learned Judicial Magistrate No.I Trichy to number the petitioner's complaint filed u/s.138 of NI Act and proceed in accordance with law.

For Petitioner : Mr.A.Joel Paul Antony

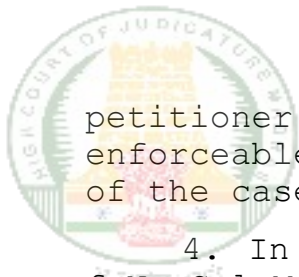
For Respondent : No Appearance

ORDER

This petition has been filed seeking direction to call for the records pertaining to the docket order dated 07.03.2021 in F.No.Crl.M.P.No.237 of 2022 on the file of learned Judicial Magistrate No.I, Trichy and set aside the same consequently direct the learned Judicial Magistrate No.I Trichy to number the petitioner's complaint filed under Section 138 of NI Act and proceed in accordance with law.

2.It is seen that the petitioner has lodged complaint for the offences under Section 138 of the Negotiable Instrument Act against the respondent herein. However it was returned for the reason that there is no legally enforceable debt arose between the complainant and the accused and the main ingredient under Section 138 of the NI Act not proved on the complainant side.

3. On perusal of the complaint, the respondent issued cheque and the same was presented for collection it was dishonored for the reason 'account closed'. After causing statutory notice the petitioner lodged complaint. The learned Magistrate without even recording sworn statement and without perusal of the original document filed along with the complaint the learned Magistrate mechanically returned the complaint for the reason that the



petitioner failed to prove that the cheque was issued for legally enforceable debt. The learned Magistrate cannot go into the merits of the case even without examining the witnesses.

4. In view of the above the docket order dated 07.03.2021 in f.No.Crl.M.P.No.237 of 2022 on the file of the learned Judicial Magistrate No.I, Trichy is hereby set aside and the petitioner is directed to represent the complaint within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the learned Magistrate is directed to record the sworn statement of the petitioner and after perusal of the document, pass orders either to take cognizance on the complaint or dismiss the same.

5. This Criminal Original Petition is ordered accordingly.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

aav

To

The Judicial Magistrate No.I, Trichy.

Copy to

1.The Section Officer,
ER Section,
Madurai Bench of Madras High Court,
Madurai.

(to return the original complaint along with all connected papers after substituting it with xerox copies to the learned counsel for the petitioner.)

2.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.A. JOEL PAUL ANTONY, Advocate (SR-16574[F] dated 05/04/2022)

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