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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2022

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P. (MD)No.17741 of 2021

and

Crl.M.P(MD) Nos.9672 and 9676 of 2021

Suresh Kumar

... Petitioners

Vs.

Maryam Khan Textiles

...Respondents

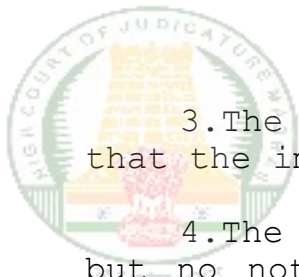
Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records relating to STC No.572 of 2021 pending on the file of the learned Judicial Magistrate No.IV, Trichy and to quash the said proceedings as against the petitioner herein.

For Petitioner : Mr.M.Karunanithi
For Respondent : Mr.J.K.Jayaseelan

ORDER

This petition has been filed to quash the proceedings in SCT No.127 on the file of the learned Judicial Magistrate, Tirunelveli, initiated for the offence under Section 138 of Negotiable Instruments Act by the respondent herein.

2.The respondent filed the complaint alleging that in due course of business transactions, the petitioner had purchased Grey Fabric on 10.10.2020 and 13.10.2022 to the tune of Rs.10,43,231.81 respectively and the petitioner has paid Rs.4,00,000/-. For the balance amount, the petitioner had issued three cheques drawn on Canara Bank, Perumal Nagar Branch, Perumal Nagar and promised to honour the same. All the cheques were presented for collection on 17.10.2020 and the same were returned for the reason "Fund Insufficient". However, as requested by the petitioner, the cheques were represented on 21.11.2020 and again the same were dishonored on the very same ground. On the return of cheques, the respondent issued statutory notice on 26.11.2020 and the same was duly received by the petitioner on 01.12.2020. On receipt of the statutory notice, again the petitioner made a request to represent the cheques for collection. As requested by the petitioner, the respondent again represented the cheque on 08.01.2021 and the same were dishonored for the reason "Fund Insufficient" on 08.01.2021 itself. On the cause of action arose on 01.12.2020 (the date of receipt of statutory notice by the petitioner), the respondent lodged the complaint on 18.01.2021, after 30 days from the date of receipt of the notice.



3.The learned counsel for the petitioner raised only ground that the impugned complaint was lodged without any cause of action.

4.The cheques were represented for collection on 08.01.2021, but no notice was issued to lodge the complaint. The respondent issued statutory notice on the dishonored of the cheques dated 21.11.2020. The said notice was duly received by the petitioner on 01.12.2020, but the petitioner did not reply for the statutory notice issued by the respondent. However, further request was made to the respondent for representation of the cheques. Again, the petitioner failed to honour the cheques and as such the respondent lodged the complaint on the cause of action arose on 01.12.2020. In pursuant to the statutory notice dated 26.11.2020 and after the period of 30 days from the date of receipt of the statutory notice, the respondent lodged present complaint. Therefore, there is a cause of action to lodge the complaint dated 18.01.2021.

5.That apart the cheque can be presented on many number of times within its period of validity, which includes even after issuance of statutory notice and receipt of the same. There is no bar for presentation of the cheque after mandatory notice. Therefore, the ground raised by the petitioner cannot be accepted. Further, the trial has been commenced and the respondent has examined himself as PW1 and the case is posted for cross examination.

6.In view of the above, the quash petition has no merits and is liable to be dismissed. The learned Judicial Magistrate No.IV, Trichy, is directed to dispose of the case in STC No.572 of 2021 within a period of six months from the date of receipt of a copy of this order. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

cp

To:

The Judicial Magistrate No.IV,
Trichy



+1 CC to M/s.M.KARUNANITHI, Advocate (SR-5532[F] dated 11/02/2022)

+1 CC to M/s.J.K.JAYASEELAN, Advocate (SR-5625[F] dated
11/02/2022)

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SMV (CO)

KB (21.03.2022) 3P 4C