



Crl.O.P.No.1831 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2023

CORAM

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

Crl.O.P.No.1831 of 2022

and

Crl.M.P.Nos.749 and 751 of 2022

M.Kumar

... Petitioner

-Vs-

K.Sengottaian

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the entire records related to the complaint in S.T.C.No.980 of 2021, on the file of the learned Judicial Magistrate No.III, Salem and quash the same.

For Petitioner : Mr.J.Hariharan
For Respondent : Mr.B.Lenin Balu

ORDER

This Criminal Original Petition has been filed challenging the proceedings in S.T.C.No.980 of 2021, on the file of the learned Judicial Magistrate No.III, Salem.



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2. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

3. The respondent lodged a complaint for the offence punishable under Section 138 of Negotiable Instruments Act. The crux of the complaint is that the petitioner and the respondent are business partners. For the said business, the petitioner had invested a sum of Rs.60 lakhs and the respondent had invested a sum of Rs.40 lakhs. However, the petitioner had sent a message to all the customers that the respondent has been relieved from the partnership. Therefore, the petitioner asked their customers to contact him directly in future. After the said intimation, the respondent asked the petitioner to settle all his dues. The respondent also agreed to settle his dues and issued a cheque for a sum of Rs.75,00,000/- in favour of the respondent. It was presented for collection and the same was returned for the reason "Funds Insufficient". After causing statutory notice, a complaint was lodged. Thereafter, the Trial Court had taken cognizance in S.T.C.No.980 of 2021.

4. The learned counsel for the petitioner would submit that



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according to the respondent, the alleged cheque was presented for collection on 18.02.2020, whereas, as per the statement of accounts, the cheque was presented on 03.01.2020 and as such, the complaint itself is barred by limitation.

5. A perusal of records, along with the complaint, revealed that the cheque was presented for collection and the same was returned as unpaid for the reason “Funds Insufficient”, by the return memo dated 18.02.2020. Therefore, only from the date of return memo, the period for issuance of statutory notice starts. Therefore, the respondent had rightly caused notice, within the stipulated time and lodged a complaint.

6. Therefore, this Court finds no ground to quash the entire proceedings, since the petitioner never denied his signature and also issuance of cheque. That apart, the grounds raised by the learned counsel for the petitioner can be considered only before the Trial Court during the trial by letting in evidence.



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7. Accordingly, this Criminal Original Petition is dismissed.

Consequently, connected Miscellaneous petitions are closed. The Trial Court is directed to complete the trial in S.T.C.No.980 of 2021, within a period of six months from the date of receipt of a copy of this order.

28.11.2023

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order
mn

G.K.ILANTHIRAIYAN. J.



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mn

To

The Judicial Magistrate No.III, Salem.

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