



WEB COPY



CrI.O.P.No.5337 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

CrI.O.P.No.5337 of 2023

Subramani @ Subramanian

Vs.

..Petitioner

M/s.Sri Prasanna Metals and Alloys Pvt. Ltd,
Represented by its Director Mr.V.Prabhu,
No.F/2, Arcot Road, Villipakkam,
Villipakkam Post, Arcot Taluk,
Vellore District – 632 521.

...Respondent

PRAYER: This Criminal Original Petition is filed under Section 482 of Cr.P.C to call for the records in S.T.C.No.2648 of 2022 pending on the file of Metropolitan Magistrate No.IV/ Fast Track Court, George Town, Chennai and quash the same as illegal and pass such further or other orders.

For Petitioner : Mr.S.Sarath Chandran

ORDER

This Criminal Original Petition has been filed to call for the records in S.T.C.No.2648 of 2022 pending on the file of Metropolitan Magistrate No.IV/ Fast Track Court, George Town, Chennai and quash the same as illegal and pass such further or other orders.



CrI.O.P.No.5337 of 2023

2. Learned counsel for the petitioner submitted that, in a meeting held on 30.09.2022, minutes were drawn. According to the minutes, petitioner issued a post dated cheque for Rs.15,50,000/-. However, the respondent filed complaint under Section 138 of Negotiable Instruments Act, alleging that, in a business transaction, petitioner was liable to pay Rs.27,57,824/- and out of this amount, petitioner paid only Rs.15,00,000/- on various dates and for the balance sum of Rs.12,57,824/-, petitioner gave a cheque for Rs.13,00,000/- It is obviously wrong, for the reason that, when it is claimed in the notice dated 01.07.2022 that Rs.15,00,000/- was paid on different dates in the month of February, March, May and June 2022, the claim that there is still a balance of Rs.12,57,824/- is not correct. Therefore, this petition is filed to call for the records in S.T.C.No.2648 of 2022 pending on the file of Metropolitan Magistrate No.IV/ Fast Track Court, George Town, Chennai and quash the same

3. Considered the submissions of the learned counsel for the petitioner and perused the records.



CrI.O.P.No.5337 of 2023

4. As stated above, it is the case of the respondent that, in a business of fabrication and supply of vessels to the petitioner, petitioner had to pay a sum of Rs.27,57,824/-. Petitioner said to have paid Rs.15,00,000/- on various dates, however, the balance amount of Rs.12,57,824/- was not paid. After series of discussion, petitioner issued a cheque for Rs.13,00,000/-, which includes interest for delayed payment. When the cheque was presented for collection on 05.06.2022, it was returned as “Account Blocked” on 07.06.2022. Thereafter, respondent sent a legal notice dated 01.07.2022 seeking payment. After receipt of notice, petitioner did not pay the amount. Therefore, a complaint under Section 138 of Negotiable Instruments Act was given.

5. It is seen from the submission of learned counsel for the petitioner and complaint given by the respondent that, the business transaction between the petitioner and respondent is accepted. In the minutes dated 30.09.2022, a post dated cheque for Rs.15,50,000/- is reserved. However, this case is filed, on the basis of the cheque for Rs.13,00,000/- returned “dishonoured”. Therefore, there is no connection between the post dated cheque for Rs.15,50,000/- and the impugned cheque for Rs.13,00,000/-. The contention



Crl.O.P.No.5337 of 2023

of the learned counsel for the petitioner that, payments have been made and petitioner is not liable to pay the amount is a disputed fact and it cannot be considered by this Court. Disputed facts can only be considered by Trial Court, on the basis of the oral and documentary evidence produced. This Court finds that there is no merits to entertain the prayer for quashment of S.T.C.No.2648 of 2022 pending on the file of Metropolitan Magistrate No.IV/ Fast Track Court, George Town, Chennai.

6. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. It is open to the petitioner to take the defense available to him before the Trial Court. The Trial Court is directed to dispose the case on merits and in accordance with law, without being influenced by any of the observation made in this Order.

09.03.2023

Index : Yes / No

Internet : Yes / No

gd



CrI.O.P.No.5337 of 2023

To

WEB COPY

The Metropolitan Magistrate No.IV/ Fast Track Court,
George Town,
Chennai.



WEB COPY



Crl.O.P.No.5337 of 2023

G.CHANDRASEKHARAN,J.

gd

Crl.O.P.No.5337 of 2023

09.03.2023