



Crl.O.P.No.8500 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2023

CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.8500 of 2023 and
Crl.M.P.No.5428 of 2023

1.M/s.A3V Cinemaz
Rep by its proprietor N.Vemal
No.3/7, Thiruvengadamswamy Street,
Kannibiran Colony, Saligramam,
Chennai – 600 093.

2.Vemal

...Petitioners

Vs.

M/s.Arasu Films
Rep by its proprietor
Mr.B.Gopi,
No.56, Sakthivel Nagar,
Peravallur, Chennai – 600 082.

...Respondent

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C, to call for the records in S.T.C.No.108 of 2022 pending before XI Court of Small Causes, Chennai and quash the same.

For Petitioners : Mr.L.Infant Dinesh
For Respondent : No appearance



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ORDER

This Criminal Original Petition has been filed to call for the records in S.T.C.No.108 of 2022 pending before XI Court of Small Causes, Chennai and quash the same.

2.The learned counsel for the petitioners submitted that respondent filed complaint under Section 138 of Negotiable Instruments Act. The impugned cheque bearing No.307178 drawn on Indian Bank, Kodambakkam Branch, was issued as a security in connection with the loan agreement dated 28.12.2016. A sum of Rs.3crore was obtained as a loan by the petitioners from the respondent. In the loan agreement, there is a specific mention that a post cheque bearing No.307178 drawn on Indian Bank, Kodambakkam Branch was issued. It was also agreed that in case, the petitioners failed to repay the loan amount, the respondent should deposit the cheque on 10th May, 2017, after giving notice to the petitioners. When there is a specific date mentioned for presentation of cheque on 10.05.2017, the presentation of cheque which was given as security in



2019 and then filing a case on the basis of return of cheque is not legal.

WEB.COM That apart, statutory notice was taken to a wrong address.

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

4.It is seen from the complaint allegations that on the basis of loan agreement, dated 28.12.2016, respondent lent a sum of Rs.3,00,00,000/- to the petitioners. It is also said that petitioners agreed to repay the loan with interest on 30.04.2017 with 3% interest. The cheque was issued as a guarantee. Then, despite numerous attempts to contact the petitioners to recover the loan amount with interest, petitioners did not give any formal response. When the respondent managed to speak with petitioner on 18.11.2019, petitioners advised the respondent to deposit the cheque for collection. Accordingly, the cheque was presented for collection on 18.11.2019. It was dis-honoured on 19.11.2019, due to “fund insufficient”. Then, statutory notice was given to the petitioners and that was returned for the reason that petitioners shifted the premises.



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5.The complaint allegations clearly make out a case for prosecuting the petitioners under Section 138 of Negotiable Instruments Act. The points aforesaid by the petitioners before this Court cannot be considered, because those facts are disputed facts. Only trial Court can consider the disputed facts if presented before it for a trial. This Court finds there is no merits in petition seeking quashment of proceedings in S.T.C.No.108 of 2022 pending before XI Court of Small Causes, Chennai.

6.Accordingly, this Criminal Original Petition is dismissed.
Consequently, connected miscellaneous petitions are closed.

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Index: Yes/No
Speaking/Non speaking order
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G.CHANDRASEKHARAN, J.

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