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Crl.O.P.No.12791 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.12791 of 2023

and

Crl.M.P.Nos.7772 and 7775 of 2023

1.AL Ambalam Group Enterprises,
No.163/6B, Madurai,
Natham Main Road, Dindigul District,
Tamil Nadu, Natham – 624 401.

2.AL-Ambalam Group Enterprises,
Represented by its authorised Signatory,
Abdul Khader Ambalam,
No.163/6B, Madurai Natham Main Road,
Dindugul District-624 601.

... Petitioners

Vs.

M/s.PMG Steels and Tubes Private Limited,
Represented by its Manager Mr.Sathesh Kumar,
Having address at
D 196, Sathangadu Iron and Steel Market,
Manali, Chennai – 600 068.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records and quash the proceedings in C.C.No.21 of 2023 on the file of the Judicial Magistrate at Thiruvotiyur for an offences under Section 138 of Negotiable Instruments Act.



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For Petitioners : Mr.C.Arun Kumar

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ORDER

This Criminal Original Petition has been filed to call for the records and quash the proceedings in C.C.No.21 of 2023 on the file of the Judicial Magistrate at Thiruvotiyur for an offences under Section 138 of Negotiable Instruments Act.

2. Learned counsel for the petitioners submitted that, respondent filed a case in C.C.No.21 of 2023 on the file of the learned Judicial Magistrate, Thiruvotiyur, alleging that, cheque bearing No.069621 dated 18.04.2022 issued for a sum of Rs.3,20,000/- was dishonoured by the petitioners by giving stop payment instruction to the Bank. It is the submission of the learned counsel for the petitioners that, the amount claimed in the cheque is not correct for the reason that, petitioners have made several payments to the tune of Rs.2,50,389/- These payments have not been considered before presenting the cheque. In support of his submission, he produced copies of funds transfered to the respondent's account number.

2.1. The next submission is that, petitioners issued a notice to the



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respondent on 18.04.2022, alleging that, there is some issue with regard to the weight of the material supplied and respondent was informed about the stop payment instruction issued to the Bank. This notice was received by the respondent on 19.04.2022. The issuance of this notice is suppressed by respondent in the complaint. Again the petitioner sent a notice dated 25.04.2022 informing about the issue of quality and also willingness to pay the balance amount within a period of 15 days.

2.2. He further submitted that, the cheque impugned is post dated cheque, but in the complaint, it is alleged that, as if the cheque was subsequent to the transaction on 15.04.2022.

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

4. The complaint allegations show that, in a business transaction between the respondent and petitioners, petitioners owe a sum of Rs.5,20,389/- to the respondent. After making several requests, petitioner gave a cheque bearing No.069621 on 15.04.2022 for a sum of Rs.3,20,000/- drawn at Canara Bank, Natham Branch, Dindigul District. This cheque was presented for collection on



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19.04.2022. But it was returned for the reason that, “Payment Stopped by the Drawer”. The Statutory notice was sent to the petitioners on 28.04.2022. Since no amount was paid, a case was filed.

4.1. The complaint allegations *prima-facie* makes out a case for initiation of proceedings under Section 138 Negotiable Instruments Act. The submission of the learned counsel for the petitioners that, various amounts paid by the petitioners to the respondent had not been considered and the submission that, petitioners informed the respondent about the stop payment instruction issued to the bank and that impugned cheque is post dated cheque are disputed facts and that have to be agitated at the time of trial. Those aspects cannot be considered now As of now, from the materials produced, this Court finds that, there are enough materials available for prosecuting the petitioners for the offence under Sections 138 of Negotiable Instruments Act. There is no merits in the petition seeking quashment of proceedings in C.C.No.21 of 2023 on the file of the Judicial Magistrate at Thiruvotiyur.



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5. Accordingly, this Criminal Original Petition is dismissed.

Consequently, the connected Miscellaneous Petitions are closed.

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Index:Yes/No
Speaking/Non speaking order
gd

To

The Judicial Magistrate,
Thiruvotiyur



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G.CHANDRASEKHARAN.J.,

gd

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