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Crl.O.PNo.20109 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2023

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THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.20109 of 2019
and
Crl.M.P.Nos.10318 & 10319 of 2019

Dillibabu Sarathe

...Petitioner

Vs.

M/s.HDFC Bank Limited,
Rep. By its Legal Officer,
Mr.Anbarasan,
"Ceebros" No.110, 4th Floor,
Nelson Manikam road, Aminjikarai,
Chennai – 600 029.

...Respondent

Prayer:- Criminal Original Petition filed under Section 482 of Cr.P.C., calling for the records relating to the proceedings in C.C.No.7608 of 2018 on the file of the Fast Track Court-III, Metropolitan Magistrate, Saidapet, Chennai.

For Petitioner : Mr.N.Karthikeyan

For Respondent : AOS filed – served – No appearance

ORDER



CrI.O.PNo.20109 of 2019

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This petition is filed to quash the complaint filed for the offences

under Section 138 of the Negotiable Instruments Act.

2.It is alleged in the complaint that the petitioner had availed a loan through credit card and in discharge of the said liability, issued a cheque bearing No.000023 dated 24.04.2018 drawn on HDFC Bank Limited in favour of the complainant. When the said cheque was sent for collection, it was returned with an endorsement "insufficient funds". It is further alleged that though legal notice had been sent, the petitioner did not make payment.

3.The learned counsel appearing for the petitioner would submit that the impugned complaint is an abuse of process of law and no cause of action has arisen to initiate the complaint. It is true that the cheque issued by the petitioner was dishonoured for the reasons "insufficient funds" and that the complainant / respondent issued a statutory notice on 03.05.2018. However, the complainant had suppressed the fact that on receipt of the statutory notice the petitioner had paid the cheque amount along with the sum of Rs.500/-, being penalty for the cheque dishonoured. The learned counsel for



the petitioner relied upon the receipt issued by the complainant, acknowledging the receipt of Rs.28,610/- in cash. The learned counsel further submitted that he had also sent a registered letter on 25.05.2018 stating that he had paid Rs.28,108/- by cash towards liability under the said cheque. However, the respondent had not sent any reply.

4.Though notice was served on the respondent, none has entered appearance on behalf of the respondent.

5.This Court finds that the petitioner has been able to show that pursuant to the statutory notice issued by the respondent, he had discharged his liability by making payment in cash. The receipt bearing number 10211181453751 issued by the respondent confirms the said fact. Further the letter dated 25.05.2018, which was acknowledged by the respondent also confirms the payment of the cheque amount along with penalty charges of Rs.500/-. The above documents produced by the petitioner, cannot be justifiably refuted by the complainant. Since the petitioner has paid the cheque amount on receipt of the statutory notice, the complaint filed by the



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respondent is not maintainable. Hence, this Court is inclined to quash the impugned proceedings as no cause of action has arisen to initiate the complaint.

6.This Criminal Original Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

23.03.2023

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Internet : Yes/No

Index: Yes/No

Speaking / Non-speaking order

Nuetral Citation :Yes/No



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To:-
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- 1.The Fast Track Court-III,
Metropolitan Magistrate,
Saidapet, Chennai.
- 2.The Public Prosecutor
High Court of Madras,
Madras.



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SUNDER MOHAN, J.

KKN

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23.03.2023