



Crl.O.P.No.20095 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2023

CORAM:

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

Crl.O.P.No.20095 of 2021 and
Crl.M.P.Nos.10951 & 10952 of 2021

Muruganandh

... Petitioner

-Vs-

A.K.Muruganandham

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, praying to call for the records relating to S.T.C.No.217 of 2023 on the file of the learned Judicial Magistrate No.I, Perambalur and quash the private complaint.

(STC No. and District amended as per order dated 19.09.2023 in Crl.MP.No.14741 of 2023 in Crl.OP.No.20095 of 2021)

For Petitioner : Mr.V.Murugesan

For Respondent : Mr.N.Elayaraja

ORDER

This criminal original petition has been filed to quash the proceedings in S.T.C.No.217 of 2023 on the file of the learned Judicial Magistrate No.I,



Crl.O.P.No.20095 of 2021

Perambalur, thereby taken cognizance for the offences under Sections 138 and 142 of Negotiable Instruments Act.

2. The crux of the case is that the respondent's brother acted as Villain in a tamil film called "POORVEEGAM". The accused requested the respondent to help to shoot the film in his village and also a shortage of fund to settle the salary of the workers. The petitioner borrowed a sum of Rs.1,00,000/- from the respondent and promised to repay the amount. However the petitioner failed to keep up his promise and he had issued a cheque for a sum of Rs.1,00,000/- drawn on State Bank of India, Anna Nagar Branch, Chennai. The respondent had presented the cheque for collection through his Bank i.e, Central Bank of India, Ariyalur on 25.11.2019 and the same was returned on 29.11.2019 with an endorsement "Funds Insufficient". Hence a statutory notice was issued by the respondent on 17.12.2019 and the same was returned with an endorsement "Unclaimed".

3. Heard, the learned counsel appearing on either side.

4. The statutory notice was not issued in the name of the petitioner.



Crl.O.P.No.20095 of 2021

Petitioner's name is R.Muruganadh, but the legal notice was issued in the name of Muruganandham. Further, the legal notice was sent to a false address.

Therefore, it was returned with an endorsement "Unclaimed". The petitioner never refused to received the said notice. That apart, in the complaint, the respondent stated that the cheque was presented for collection before the Central Bank of India, Ariyalur. However in the legal notice, the respondent stated that the cheque was presented in the State Bank of India, Ariyalur. Further, the petitioner never issued any cheque to the respondent for any legally enforceable debt. Therefore no offence is made out as against the petitioner.

5. On perusal of the records reveals that the alleged cheque was issued from the State Bank of India and the said cheque was presented for collection before the State Bank of India and the same was returned for the reason that "Funds Insufficient". Further on perusal of the complaint, the respondent stated that the cheque was presented before the Central Bank of India, Ariyalur. Though notice was returned "Unclaimed", it was represented that the name was mentioned as Muruganandham.

6. That apart, the notice did not consist the period of repayment of the cheque amount. The provision under section 138 of NI Act mandates that the time shall be mentioned as 15 days for the return of the cheque amount.



Crl.O.P.No.20095 of 2021

Therefore, there was no cause of action for the offence under section 138 of Negotiable Instruments Act. As rightly pointed out, the accused\petitioner never borrowed any amount from the respondent. Even according to the respondent, in order to fulfill the requirements, the cheque was obtained by the respondent and presented for collection. Therefore, the cheque was not issued for any legally enforceable debt.

7. In the light of the above discussions, this Criminal Original Petition in Crl.O.P.No.20095 of 2021 is allowed and the proceedings in S.T.C.No.217 of 2023, on the file of the learned learned Judicial Magistrate No.I, Perambalur, is hereby quashed. Consequently, connected miscellaneous petitions are closed.

06.11.2023

Index :Yes/No
Internet : Yes/No
Speaking order/non-speaking order
gyn

To

The Judicial Magistrate No.I,
Perambalur



WEB COPY



CrI.O.P.No.20095 of 2021



WEB COPY



Crl.O.P.No.20095 of 2021

G.K.ILANTHIRAIYAN, J.

gyn

Crl.O.P.No.20095 of 2021 and
Crl.M.P.Nos.10951 & 10952 of 2021

06.11.2023