



Crl.OP.No.22644 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2023

CORAM:

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

Crl.OP.No.22644 of 2022 and
Crl.MP.No.14526 of 2022

M.Vijay

... Petitioner

Vs.

M/s.GVN Promoters and Developers Pvt Ltd.,
Represented by its Prop.G.Venkatraman,
Plot No.28, Door No.692/4,
Lakshmi Nagar,
Kolapakkam,
Kancheepuram District 600 127

... Respondent

PRAYER: Criminal original petition is filed under Section 482 of Cr.P.C. to call for records relating to STC.No.2407 of 2021 on the file of the Metropolitan Magistrate Court(Fast Track Court No.II), Egmore at Allikulam and to quash the same.

For Petitioner : Mr.S.Anburaja

For Respondent : Mr.N.Premkumar

ORDER

This Criminal Original Petition has been filed to quash the proceedings in STC.No.2407 of 2021 on the file of the Metropolitan Magistrate Court(Fast Track Court No.II), Egmore at Allikulam.



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2. The respondent filed complaint for the offence punishable under

Section 138 of Negotiable Instruments Act as against the petitioner. The crux of the complaint is that the petitioner entered into an agreement for construction with the respondent on 21.11.2020 to construct a residential villa in the plot bearing No.67 admeasuring to an extent of 2749 sq.ft. comprised in survey No.350/5 situated at Nathamkariyacheri Village, Thirukazhukundram Taulk, Chengalpet. As per the agreement, cost of the construction was mutually agreed at Rs.36,61,800/-. The petitioner had paid only a sum of Rs.10,30,000/-. After completion of substantial construction, the respondent raised invoice on 15.06.2021 for which, toward part payment, the petitioner issued cheque for a sum of Rs.6,00,000/- dated 24.07.2021. The said cheque was presented for collection and however, it was returned dishonoured for the reason 'payment stopped by the drawyer'. After issuance of notice, the respondent filed complaint.

3. The learned counsel for the petitioner would submit that as per the agreement, the respondent failed to put up any construction. He did not complete the construction to the level of loft. Thereafter, there was negotiation between the parties and agreed to proceed with the construction. The petitioner



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also agreed to pay a sum of Rs.6,00,000/-. Even then, after issuance of cheque, the respondent failed to proceed with the construction and as such, the petitioner issued stop payment letter. Therefore, the cheque was not issued for any legally enforceable debt. Hence, he prayed for quashment of the complaint.

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

5. On perusal of records, revealed that according to the respondent, he had put up construction and raised invoice in the name of M/s.Seyon Construction for a sum of Rs.28,11,900/-. Towards part payment of the said invoice, the petitioner issued cheque for a sum of Rs.6,00,000/-. However, the issuance of cheque and signature of the cheque are not denied by the petitioner. Therefore, there is a presumption under Section 138 of NI Act that the cheque was issued for legally enforceable debt. That apart, the grounds raised by the petitioner can be considered only before the trial court during the trial by letting in evidence. Hence, this Court finds no grounds to quash the impugned proceedings.



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6. Accordingly, this criminal original petition is dismissed. However, the personal appearance of the petitioner is dispensed with and he shall be represented by a counsel after filing appropriate application. However, the petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment. The trial Court is directed to complete the trial within a period of six months from the date of receipt of copy of this Order. Consequently, connected miscellaneous petition is closed.

30.11.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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To

- 1.The Metropolitan Magistrate Court(Fast Track Court No.II),
Egmore at Allikulam
- 2.G.Venkatraman,
Proprietor,
M/s.GVN Promoters and Developers Pvt Ltd.,
Plot No.28, Door No.692/4,
Lakshmi Nagar,
Kolapakkam,
Kancheepuram District 600 127



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G.K.ILANTHIRAIYAN, J.

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