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Crl.O.P.No.25412 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2023

CORAM:

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

Crl.O.P.No.25412 of 2021 and
Crl.M.P.Nos.14082 & 14083 of 2021

Saravanan

... Petitioner

-Vs-

M/s.Dhananidhi Chit Funds Private Ltd.,
Rep. by its Managing Director A.Sankar,
No.37/115, 38/116 St. Marys Shopping Complex,
Bazaar Street, 1st Floor, Ranipet,
Attur Taluk & Town, Salem District.

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, praying to call for the record in S.T.C.No.14 of 2020 on the file of the Judicial Magistrate/Fast Track Court, Attur and to quash the same.

For Petitioner : Mr.A.Rajakumar

For Respondent : Mr.S.Ambigapathi



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ORDER

This Criminal Original Petition is filed to quash the proceedings in S.T.C.No.14 of 2020 on the file of the Judicial Magistrate, Fast Track Court, Attur thereby taken cognizance for the offences under Sections 138 and 142 of Negotiable Instruments Act, 1881.

2. The crux of the case is that this petitioner is the accused as alleged in the complaint filed by the respondent. The respondent is conducting chit business registered under appropriate authority. The respondent was conducted several chit auctions in several groups after obtaining necessary permission from concerned authority. This petitioner is one of the subscriber in the chit group bearing No.DCF006E, Chit No.14, which was registered under chit agreement No.192/2017 for Rs.10,00,000/- payable with a monthly instalment of Rs.40,000/- for a period of 25 months. This petitioner became the successful bidder in the 1st chit on 22.11.2017 and Executed a Chit pronote along with his father Chittiannan who stood as a surety to the petitioner on 22.11.2017. This petitioner and his father executed some other documents in



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favour of the complainant's chit funds. The prized amount was given to the petitioner through his bank account. This petitioner became successful bidder in the 1st chit and after the receipt of the above amount of Rs.6,89,000/- , the petitioner paid 4 instalment till 4th chit auction. On 16.10.2019 the accused issued post dated cheque bearing No.068748 Axis Bank, in favour of the respondent. On 16.10.2019 the respondent placed the said cheque for collection with Karur Vysya Bank, Attur Branch, but on 18.10.2019 the cheque was returned with an endorsement that "FUNDS INSUFFICIENT". Hence the complaint.

3. The petitioner raised only ground that the cheque amount could not be settled by the petitioner only due to no rain and as such he sustained huge loss in his agricultural land. That apart, due to Covid-19 pandemic, there was no income. Further, the cheque was not issued for any legally enforceable debts and the petitioner never be a subscriber to the Chit auction conducted by the respondent. This can be considered only before the trial court by lodging evidence. Therefore, this court is not inclined to quash the S.T.C.No.14 of 2020 on the file of the Judicial Magistrate Fast Track Court, Attur. However, The personal appearance of the petitioner is dispensed with and he shall be



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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.

4. Accordingly, this Criminal Original Petition is dismissed.

Consequently, connected miscellaneous petitions are closed.

08.11.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order
gvn

To

1) The Judicial Magistrate Fast Track Court,
Attur.

2) Mr.A.Sankar,
Managing Director,
M/s.Dhananidhi Chit Funds Private Ltd.,
No.37/115, 38/116 St. Marys Shopping Complex,
Bazaar Street, 1st Floor, Ranipet,
Attur Taluk & Town, Salem District.



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