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CrI.O.P.No. 25775 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2023

CORAM:

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

CrI.O.P.No. 25775 of 2021

and

CrI.M.P.No.14310 of 2021

P.Kumarasamy,
Proprietor
M/s.Rajalakshmi Poultry Farm. Petitioner

Vs

P.Vel,
Proprietor,
M/s.J.R.V.Trading Company. Respondent

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the record in STC No.200 of 2019 on the file of the Judicial Magistrate, Rasipuram and quash the same.

For Petitioner : Mr.A.Rajkumar
For Respondent : Mr.S.P.Yuaraj

ORDER

This Criminal Original Petition has been filed to quash the proceedings in STC No.200 of 2019 on the file of the Judicial Magistrate, Rasipuram.



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2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The respondent filed complaint for the offence punishable under Section 138 and 142 of Negotiable Instruments Act as against the petitioner. The crux of the complaint is that the respondent is known to the accused for some time and is having business transactions with the accused. As per the request of the accused, the respondent supplied poultry feeds to the accused on credit. Apart from the supply, the accused asked loan periodically from the respondent, which were made through NEFT and RTGS to the bank account of the accused. In the course of such purchases made by the accused on credit and such loan, he owned a total sum of Rs.1,20,73,969/- to the respondent. The accused also agreed to pay interest at the rate of 24% per annum for the goods supplied to the accused on credit from the date of invoices. On repeated request made by the respondent, the accused issued four cheques. When the cheques were presented for collection, the same were returned with an endorsement "Funds Insufficient". After



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causing statutory notice, the respondent lodged a complaint.

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4. The Trial Court had taken cognizance and issued summons to the petitioner. The only ground raised by the petitioner is that the statutory notice was issued on 20.05.2019. After receipt of the same, the petitioner issued reply notice on 03.06.2019. The respondent ought to have filed a complaint within a period of 30 days from the date of legal notice. However, the complaint was filed only on 10.07.2019, that too, without any condone delay petition. That apart, law mandates each complaint can be filed only as against the dishonour of three cheques. In the case on hand, there are four cheques, which were returned “dishonoured”.

5. A perusal of the records reveals that, after returning the alleged cheques, the respondent caused legal notice on 20.05.2019. Whereas, the complaint was filed only on 10.07.2019. Therefore, it is clearly barred by limitation. Hence, the Trial Court ought not to have taken cognizance beyond the period of 30 days from the legal notice. On the sole ground, the cognizance taken by the Magistrate cannot be sustained and it is liable to be quashed.



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6. In view of the above, the proceedings in STC No.200 of 2019 on the file of the Judicial Magistrate, Rasipuram, is hereby quashed. Accordingly, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

16.11.2023

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
Lpp

To

The Judicial Magistrate,
Rasipuram.



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G.K.ILANTHIRAIYAN. J,

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