



Crl.OP No.22966 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30-11-2023

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THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl. OP No.22966 of 2023
and
Crl.MP Nos.16108 and 16450 of 2023

1.Sunshine Trading Company Represented
by Sole Proprietor Sharukh Malik,
S/o.Mohaamed Rahis,
Sunshine Trading Company,
Near Pasonda Bus Stand,
Pasonda Sahibabad,
Ghaziabad Taluk,
Uttar Pradesh-201 005.

2.Sharukh Malik

... Petitioners

Versus

N.P. Vikram Prakash

... Respondent

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the STC No.893 of 2021 pending before the learned Judicial Magistrate No.I, Virudhachalam.

For Petitioners : Mr.Nidhi Vardhan

For Respondent : Mr.R.Sankarasubbu



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ORDER

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The present Criminal Original Petition has been filed to quash the private complaint filed under Section 138 of the Negotiable Instruments Act, 1881.

2. The learned counsel appearing on behalf of the petitioners had marshalled the reasons to entertain the present Criminal Original Petition and almost all the points raised are factual aspects disputed by the other side and therefore to be settled only in the course of trial. The two points which are pertinently argued are that the subject cheque was stolen from the possession of the accused and that has been misused. Earlier cheque dated 30.03.2021 was presented for collection on 07.05.2021 and returned on 10.05.2021. The complainant cause notice dated 05.06.2021, but it was not served on the accused-petitioners.

3. It appears that the complainant had re-presented the cheque again on 22.06.2021, but returned with an endorsement 'Stop Payment'. Thereafter, causing statutory notice and receiving reply, complaint has been filed before the learned Judicial Magistrate No.I, Virudhachalam on



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12.08.2021. However, according to the learned counsel appearing on behalf of the petitioners, the second re-presentation of the cheque was not at the instance of the accused and the first re-presentation of the cheque was never been brought to the notice of the accused and the alleged service of notice dated 05.06.2021 is disputed.

4. According to the learned counsel appearing on behalf of the petitioners, as per the status detail in the Website of the Court, the date of filing of the complaint is 22.09.2021 with Registration No.893 of 2021 and the CNR Number is TNCD0D-001217-2021. Therefore, it is contended by the learned counsel appearing on behalf of the petitioners that the complaint is hopelessly barred by limitation, since it was filed after the period prescribed for taking cognizance of the complaint under Section 138 of the Negotiable Instruments Act, 1881.

5. The learned counsel appearing on behalf of the respondent-complainant furnished photo copy of the complaint, wherein the seal of the Judicial Magistrate's Court No.I, Virudhachalam is affixed and it indicates that the complaint was presented before the Court on 12.08.2021 and taken on file on 22.09.2021. The dates between the presentation of the complaint and the



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Magistrate taking it on file is the period taken by the learned Magistrate to apply her mind as to whether to take cognizance of the complaint or not. The limitation can be reckoned only on the date of presentation of the complaint, but not from the date on which the complaint was taken on file. Therefore, two serious contentions raised by the learned counsel appearing on behalf of the petitioners does not sustain the scrutiny of the provision of law. First is that the cheque can be presented any number of times till the expiry of its validity period and the second one is that limitation reckons from the expiry of fifteen days from the date of receipt of statutory notice till the date of presentation of the complaint before the Competent Judicial Magistrate and not on the date of the complaint taken on file.

6. For the aforementioned reasons, the present Criminal Original Petition stands dismissed. Consequently, the connected Criminal Miscellaneous Petitions are also dismissed.

30-11-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
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To

1.The Judicial Magistrate No.I,
Virudhachalam.

2.The Public Prosecutor,
High Court of Madras,
Chennai.



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DR.G.JAYACHANDRAN, J.

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