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Crl.O.P.Nos.13557 of 2017 & 2265 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.Nos13557 of 2017 & 2265 of 2021

and

Crl.M.P.Nos.8748 of 2017, 1244 & 1245 of 2021

Crl.O.P.No.13557 of 2017

1. Manju Foundation Pvt Ltd.,
Rep. by its M.D., CEO Vidyasagar.

2. Vidyasagar,
M.D., CEP and authorised Signatory
Manju Foundation Pvt Ltd.,

Vs

V.Sabarimani

.... Petitioners
.... Respondent

Crl.O.P.No.2265 of 2021

Ananthakumar

Vs

V.Sabarimani

.... Petitioner

.... Respondent

Common Prayer : Criminal Original Petitions are filed under Section 482 of Criminal Procedure Code, to call for the records in respect of C.C.No.256 of 2016 on the file of the Judicial Magistrate – II at Chengalpattu and quash the same.

In Crl.O.P.No.13557 of 2017

For Petitioners : Mr.C.S.Saravanan

For Respondent : Mr.M.Vijayakumaran

In Crl.O.P.No.2265 of 2021



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CrI.O.P.Nos.13557 of 2017 & 2265 of 2021

For Petitioner : Mr.C.S.Saravanan
For Respondent : Mr.K.Selvarangan

COMMON ORDER

These Criminal Original Petitions have been filed to quash the proceedings in C.C.No.256 of 2016 on the file of the Judicial Magistrate No.II, Chengalpattu.

2. The respondent filed a complaint for the offence punishable under Section 138 of Negotiable Instruments Act as against the petitioners and two others. The crux of the complaint is that all the accused persons are in-charge of day to day affairs of the first accused Company and they are responsible for the entire affairs of the first accused Company. The respondent booked a Villa in the first accused Company and she paid a sum of Rs.31,77,952/- for a period from 23.12.2013 to 22.09.2015 and she was allotted a Villa No.07. However, the accused failed to hand over the Villa as agreed. Therefore, the petitioners and the respondent mutually agreed to terminate the contract and the accused issued two cheques for a sum of Rs.20,00,000/- (Rs.10 Lakhs each). Both cheques were presented for collection and the same were returned with an endorsement "Insufficient Funds". After causing



statutory notice, the respondent filed a complaint.

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3. The petitioners raised a ground that the respondent did not pay the installment as per the agreement and terms of contract. Therefore, there was a delay in handing over the Villa. In fact, the agreement between the petitioners and the respondent is still in force and as such, no offence is made out under Section 138 of Negotiable Instruments Act.

4. On perusal of the records, admittedly, the respondent booked a Villa with the accused and paid a sum of Rs.31,77,952/- on various dates. There was a delay and as such, both agreed to cancel the agreement and issued cheque towards part settlement to the tune of Rs.20,00,000/-. Both cheques got dishonoured and the proceeding under Section 138 of Negotiable Instruments Act was initiated. Therefore, there is a prima facie case made out as against the petitioners, in order to proceed for the offence punishable under Section 138 of Negotiable Instruments Act.

5. In fact, pending these petitions, the matter was referred



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before Mediation for settlement. The petitioners agreed to pay a sum of Rs.33,00,000/-. However, for the past seven years it is pending before this Court without any settlement. Therefore, it is nothing but delaying tactics. That apart, no ground is made out by the petitioners to quash the proceedings.

6. In view of the above, this Court is not inclined to quash the proceedings in C.C.No.256 of 2016 on the file of the Judicial Magistrate No.II, Chengalpattu. Accordingly, these Criminal Original Petitions stand dismissed. Consequently, connected miscellaneous petitions are closed.

27.11.2023

Lpp
Index:Yes/No
Internet:Yes/No

To

The Judicial Magistrate – II,
Chengalpattu

G.K.ILANTHIRAIYAN,J.

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