



CrI.O.P.No.27619 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2023

CORAM:

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

CrI.O.P.No.27619 of 2017
and
CrI.M.P.Nos.15767 and 15768 of 2017

Imra Broilers
represented by its Partner
Riyaz

... Petitioner

-Vs-

Kokkarako Broilers,
represented by its Power of Attorney Agent
S.Jayavel

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C to call for the records in respect of impugned complaint in S.T.C.No.328 of 2017 on the file of the Judicial Magistrate Court No.I, Tirupattur, Vellore District and quash the same.

For Petitioner : No appearance

For Respondent : Mr.K.Selvarangan

ORDER

This Criminal Original Petition has been filed calling for the records in the impugned complaint in S.T.C.No.328 of 2017 on the file of the Judicial Magistrate Court No.I, Tirupattur, Vellore District and to quash the same.



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2. There is no representation on behalf of the petitioner. Heard the learned counsel for the respondent and perused the materials available on record.

3. The respondent lodged a complaint for the offence punishable under Sections 138 and 141 of Negotiable Instruments Act as against the petitioner alleging that the accused had purchased live broilers to the tune of Rs.5,20,086/- . In order to settle the said amount, the petitioner issued cheque for the said sum. It was presented for collection and the same was returned dishonoured for the reason “Funds Insufficient”. After causing statutory notice, the respondent filed a complaint and the same has been taken cognizance for the offences punishable under Sections 138 and 141 of Negotiable Instruments Act.

4. The petitioner raised grounds that the petitioner is not a signatory of the cheque. He is only a partner of Imra broilers and he had never issued any cheque in favour of the respondent. The offence under Section 138 of Negotiable Instruments Act can be invoked only as against the drawer of the cheque for prosecution and as such, the complaint cannot be sustained as against the petitioner. The petitioner was not served with any statutory notice.

5. A perusal of records revealed that the cheque for a sum of



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Rs.5,20,086/- was issued by the petitioner as an authorized signatory and partner of Imra Broilers. Admittedly, the petitioner had purchased broilers from the respondent to the tune of Rs.5,20,086/-. After dishonor of the cheque, the respondent caused statutory notice and the same was returned as unclaimed. Therefore, the grounds raised by the petitioner cannot be considered to quash the entire proceedings, since the grounds raised by the petitioner are mixed question of facts and law. All the grounds can be considered only before the Trial Court during Trial.

6. Hence, this Court is not inclined to quash the impugned proceedings in S.T.C.No.328 of 2017 on the file of the Judicial Magistrate Court No.I, Tirupattur, Vellore District. The trial Court is directed to complete the trial in S.T.C.No.328 of 2017, within a period of six months from the date of receipt of a copy of this order.

7. Accordingly, this Criminal Original Petition is dismissed.

Consequently, connected Miscellaneous petitions are closed.



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Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

mn

G.K.ILANTHIRAIYAN. J,

mn



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