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CrI OP No. 31188 / 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Criminal Original Petition No. 31188 of 2019
and

CrI.M.P. No. 16999 of 2019

Maruthai

... Petitioner

Versus

Raja

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records and quash the impugned proceedings in S.T.C. No. 546 of 2019 on the file of Judicial Magistrate – 2, Jayamkondam.

For petitioner : Mr. P.R. Thiruneelakandan.

For Respondent : Mr. C. Prakasam.

ORDER

The Petition is to quash the private complaint filed under Sections 138 and 142 of the Negotiable Instruments Act.



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2. It is alleged in the complaint that the petitioner had borrowed a sum of Rs.16,13,000/- on two dates viz., 27.12.2018 and 30.01.2019 and towards discharge of the said loan, he had issued a cheque bearing No.000472 for Rs.16,13,000/- on 08.04.2019. The said cheque when presented was returned for the reason 'Account blocked situation covered into 2125'. Thereafter, though statutory notice was issued to the petitioner, he had not made payment and hence, the complaint.

3.(i) The learned counsel for the petitioner submitted that the account was blocked by the Bank because there were several complaints against the Branch Manager where the petitioner had an account. The petitioner had complained that the amounts were being debited without obtaining cheques and even without the signature of the authorised signatories. Therefore, the bank had blocked the account. The learned counsel for the petitioner therefore submitted that the accounts were not blocked at his instance and he had no control over the account. Hence the dishonour of the cheque for the reason 'Account blocked' would not attract the offence under Section 138 of the Negotiable Instruments Act. The learned counsel relied upon the following Judgments viz.,



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(i) Judgment of the Delhi High Court in ***Onkar Nath Goenka Vs.***

Gujarat Lease Finance Ltd., reported in ***Manu/DE/1508/2008***.

(ii) Judgment of the Delhi High Court in ***Vijay Chaudhary Vs.***

Gyan Chand Jain reported in ***Manu/DE/0886/2008***.

(iii) Judgment of the Hon'ble Supreme Court in ***Neon Laboratories***

Ltd., Vs Medical Technologies Ltd., & Ors. in ***Civil Appeal No.1018 of 2006*** dated ***05.10.2015***.

(iv) Judgment of the Delhi High Court in ***Ceasefire Industries Ltd.,***

Vs. State & Others reported in ***2017 (2) MWN (Cr.) DCC 71 (Del.)***

(v) Judgment of the Punjab-Haryana High Court in ***Arvinderjit***

Kaur Vs State of Haryana and another in ***CRM-M-12771-2018*** dated ***29.10.2018***.

(vi) Judgment of this Court in ***Reeoh Business India Limited and***

Ors. Vs Mathiazhagan in ***Crl.O.P.No.2174 of 2019*** dated ***15.06.2022***

In three of the cases, the Delhi High Court had held that where the cheque was dishonoured for the reason 'Account blocked' on account of action taken by the statutory authorities or third parties, the drawer of the cheque cannot be made liable for the offence under Section 138 of the Negotiable Instruments Act.



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4. The learned counsel for the respondent would submit that the allegations in the complaint attract the offence under Sections 138 of the Negotiable Instruments Act. The question whether the account was blocked at the instance of the petitioner or by any third party or statutory authority is a question which has to be adjudicated only before the trial Court. Further, the learned counsel would submit that the petitioner was in the habit of issuing cheques to several persons after obtaining huge sum of money and thereafter, giving police complaint alleging theft and misuse of the cheque. The learned counsel would further submit that the



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petitioner had given complaint against one Veeravel and others alleging theft of a cheque which was registered in Crime No.123 of 2019. The said Veeravel had filed a petition to quash the First Information Report. This Court had quashed the First Information Report against him on the ground that it is an abuse of process of law. The petitioner filed a Special Leave Petition before the Hon'ble Supreme Court and the same came to be dismissed.

5.This Court finds that the cheque issued by the petitioner was dishonoured for the reasons 'Account blocked situation covered into 2125'. In all the Judgments cited by the petitioner / accused, which has been referred above, the account was blocked by the statutory authorities or by third parties of which the accused had no control. It is the specific case of the respondent that the account was blocked at the instance of the petitioner. Further the learned counsel for the petitioner was unable to produce any document to prove that the account was not blocked at his instance. Therefore, the question as to whether the account was blocked at the instance of the petitioner or due to an action taken by a third party or a statutory authority has to be adjudicated only before the trial Court. Further, the question whether the petitioner is liable to pay the cheque



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amount in discharge of a debt of liability has to be adjudicated only before the trial Court. It is also reported that trial has commenced and the complainant was examined before the trial Court.

6. For all the above reasons, this Court is not inclined to entertain this petition and accordingly, this Criminal Original Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed.

31.03.2023

ay

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

1. The Inspector of Police,
Central Crime Branch,
EDF – III, Vepery,
Chennai – 600 007.
2. The Judicial Magistrate No.I,
Poonamallee.
3. The Additional Public Prosecutor,



High Court of Madras,
Chennai.

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