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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 05/04/2023

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The Hon'ble Mr.Justice **G.ILANGOVAN**

Cr1.OP(MD)No.5782 of 2023

B.Muthu Manoharan : Petitioner/Petitioner

Vs.

S.Lavanya : Respondent/Respondent

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to set aside the order passed by the Judicial Magistrate, Santhankulam, Thoothukudi in STC No.857 of 2019, dated 23/09/2023 and consequently direct the aforesaid Magistrate to proceed with the said case and to dispose of the same in accordance with the merits and pass such any or other orders.

For Petitioner : Mr.R.Anand

**ORDER**

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This criminal original petition has been filed seeking to set aside the order passed by the Judicial Magistrate, Santhankulam, Thoothukudi in STC No.857 of 2019, dated 23/09/2023 and consequently, direct the aforesaid Magistrate to proceed with the said case and to dispose of the same in accordance with the merits.

2.The facts in brief:-

The petitioner filed a private complaint before the trial court. It was taken cognizance in STC No.815 of 2009. It is for an offence under section 138 of the Negotiable Instruments Act. He has stated in the complaint that the accused borrowed a sum of Rs.32,00,000/- for meeting out his debts. The entire amount was transferred to the account of the accused through banking transaction. Towards the discharge of the above said amount, the accused issued a cheque, on 28/02/2019 drawn on City Union Bank, Mathuravayil Branch, Chennai. That was presented for payment by him through his banker namely Indian Overseas Bank, Sathankulam Branch, on 18/09/2019. It was returned as funds insufficient.



After completing the statutory formalities, he filed the private complaint.

3.Challenging the above said proceedings, the accused filed CrI.OP(MD)No.15233 of 2022 seeking quashment. That was dismissed by this court. But however, the trial court returned the complaint stating that the accused Bank as well as the complainant Bank are situated within the jurisdiction of Sathankulam Court. So, it was returned to the complainant to file it before the jurisdictional criminal court.

4.The legality of the order is called in question by this petition. Even citing the provisions, under which the complaint is not maintainable before the trial court, the above said order has been passed.

5.It is not in dispute that the cheque was drawn on City Union Bank, Mathuravayil Branch, Chennai, which was the Banker of the accused. The cheque was presented in the branch, in which the complainant having an account. This Bank is Indian Overseas Bank, Sathankulam. So, it is payee Bank. The complainant is well within its



right to present for collection through his Banker situated in Sathankulam. It is also legal one and not illegal. Usually, the outstation cheques will be forwarded to the concerned branch for collection. As usual, the above said cheque was forwarded to the City Union Bank, Mathuravayil Branch, Chennai, where the drawer namely the accused was having account. Due to insufficiency of funds, it was returned as dishonoured. So the place where present station can also have a jurisdictions to entertain the complaint. So, I find that the order that has been passed by the trial court is not legal and the same is liable to be set aside.

6.In the result, this criminal original petition is **allowed**. The order in STC No.857 of 2019 on the file of the Judicial Magistrate, Santhankulam, Thoothukudi is set aside. The trial court is directed to restore the complaint on its file and proceed in accordance with law.

05/04/2023

Index:Yes/No
Internet:Yes/No

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To,

The Judicial Magistrate,



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Santhankulam,
Thoothukudi District.

G.ILANGO VAN, J

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05/04/2023