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Crl.O.P.(MD)No.15996 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.09.2023**

CORAM:

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.O.P.(MD) No.15996 of 2023
and
Crl.M.P.(MD).Nos.12693 & 12694 of 2023

K.Chockalingam

... Petitioner

Vs.

K.Suresh

.. Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in S.T.C.No.442 of 2023 on the file of the Judicial Magistrate Court, Radhapuram and quash the same.

For Petitioner : Mr.S.Kumar

ORDER

This Criminal Original Petition is filed under Section 482 of Cr.P.C. seeking for quashment of the case in S.T.C.No.442 of 2023 on the file of the Judicial Magistrate Court, Radhapuram.

2. The petitioner is the accused in S.T.C.No.442 of 2023 on the file of the Judicial Magistrate Court, Radhapuram. According to the



learned counsel for the petitioner, he is the power agent of the heirs of one Ganapathay Moopan and others and on the basis of the power deed, he entered into the sale agreement with the complainant. He has received Rs.15,00,000/- as an advance. At the time of receipt of advance, he has also given cheques to the complainant as a security for the above said receipt of the advance amount of Rs.15,00,000/-. The petitioner, thereafter, did not make any repayment of the advance amount and hence, the respondent presented the cheque for the above said amount in the Bank. But the same was returned with an endorsement “Insufficient Funds”. So, he issued statutory notice to the petitioner. The petitioner, after receipt of the said statutory notice, did not response. Hence, he filed a complaint under Section 138 of Negotiable Instruments Act, before the learned Judicial Magistrate, Radhapuram. The said complaint was taken on file in S.T.C.No.442 of 2023. Challenging the said proceedings, the petitioner has filed the present quash petition.

3. On perusal of records, it is seen that the repayment of the advance amount is not legally enforceable and issuance of cheque for the purpose of security has to be assessed during the course of trial after recording the evidence. At this stage, this Court has no jurisdiction to enter into the factual aspect as submitted by the petitioner.



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4. Accordingly, this Criminal Original Petition is dismissed with liberty to raise all points during trial. Consequently, the connected miscellaneous petitions are closed.

04.09.2023

NCC : Yes / No
Index : Yes/No
Internet : Yes/No
tsg

To
1.The Judicial Magistrate, Radhapuram.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN. J.

tsg

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