



Crl.RC.No.465 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

Crl.RC.No.465 of 2022

and

Crl.MP.No.4817 of 2022

K.Jeeva

...Petitioner

Vs.

G.Eswaran

...Respondent

Criminal Revision case filed under Section 397 r/w 401 of Cr.P.C. to call for the records in CMP.No.5126 of 2021 in CC.No.271 of 2016 on the file of Judicial Magistrate Court No.1, Mettur and set aside the same.

For Petitioner : Mr.C.Deepak Kumar

For Respondent : Mr.P.Saravanan

ORDER

This Criminal Revision Case has been filed seeking quashment of the order of the Judicial Magistrate Court No.1, Mettur passed in CMP.No.5126 of 2021 in CC.No.271 of 2016 dated 24.02.2022.



Crl.RC.No.465 of 2022

WEB COPY

2. The case of the petitioner is that, the respondent/complainant initiated proceedings under Section 138 of the Negotiable Instruments Act against the petitioner in CC.No.271 of 2016 before the learned Judicial Magistrate No.I, Mettur alleging that the petitioner and the respondent are known to each other and on such acquittance, on 24.07.2016, the petitioner borrowed a sum of Rs.6,00,000/- from the respondent to meet out his urgent needs and promised to repay the same within a month and he also issued a cheque bearing No.735900 dated 22.08.2016 towards discharge of the said liability. As per the instruction of the petitioner, when the respondent presented the said collection for collection on 24.08.2016, the same was returned with an endorsement “Insufficient funds”. Thereby, the complainant issued a legal notice dated 03.09.2016 and despite receiving the same on 29.09.2016, as the petitioner had neither sent a reply nor repaid the borrowed amount, the petitioner filed a petition under Section 142(1)(a) of the NI Act in CMP.No.5126 of 2021 seeking to transfer the case to the court of proper jurisdiction. However, the trial Court had dismissed the said petition. Aggrieved by the same, the petitioner has come up with this revision.



WEB COPY

3. Learned counsel appearing for the revision petitioner submitted that, the respondent/complainant's bank is State Bank of India, Anthiyur Branch and the same is not situated within the jurisdiction of the trial court, and as per Section 142(1)(a) of the NI Act, in which it is clearly stated that, *“if the cheque is delivered for collection through an account, the branch of the bank where the payee or holder in due course, as the case may be maintains the account is situated”* and therefore, the respondent's complaint does not come under the jurisdiction of the Judicial Magistrate No.I, Mettur and thereby, the petitioner filed a transfer petition. However, the trial court, without considering any of the above said facts had mechanically dismissed the said petition, which is not sustainable. Accordingly, he prayed for prayed for appropriate orders.

4. Per contra, the learned counsel appearing for the respondent submitted that, the territorial jurisdiction has been given both to the places where the drawer as well as the drawee is located to try the cases and therefore, the trial court has jurisdiction to try the case. Further, though the complaint is of the year 2016, the petitioner had filed the



WEB COPY

above said transfer petition only in the year 2021 raising the ground of jurisdiction and the said act of the petitioner is only to drag on the proceedings and trial court, after careful consideration of the said facts had dismissed the transfer petition filed by the petitioner, which is perfectly in order and the same does not warrants interference of this Court. Accordingly, he prayed for dismissal of this revision.

5. This Court gave its anxious consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

6. Though very many grounds have been raised by the petitioner against the order impugned, however, upon perusal of the materials placed on record particularly the impugned order, this Court is of the view that, the issue is a triable one and the same was properly considered by the trial court and had dismissed the transfer petition filed by the petitioner by relying upon the decision of the High Court of Gujarat in the case of ***Birendra Enterprise Vs. State of Gujarat & Anr.***, wherein it is held that the complaint under Section 138 of the NI Act can



Crl.RC.No.465 of 2022

WEB COPY

be filed at the Court within whose jurisdiction the branch of the bank is located where the cheque is presented for payment.

7. In the present case, the case instrument having been presented by the petitioner for collection through the State Bank of India, Mettur Dam Branch, Mettur, the issue is very well within the jurisdiction of the trial court. Hence, this Court is not inclined to interfere with the order impugned.

8. For the reasons aforesaid, this Criminal revision case stands dismissed. Consequently, the connected Miscellaneous petition is closed.

10.07.2024

skt

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No

To

1. The 2nd Additional Sessions Court,
Salem.
2. The Judicial Magistrate No.1,
Mettur.



WEB COPY



Crl.RC.No.465 of 2022

M.DHANDAPANI, J.

skt

Crl.RC.No.465 of 2022
and
Crl.MP.No.4817 of 2022

10.07.2024