



Crl.O.P.No.7552of 2024

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:17.10.2024

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.7552 of 2024
and
Crl.M.P.Nos.5491 and 5493 of 2024

P.Muthuveeran

..Petitioner/Accused

/versus/

A.Selvakumar,
Aged about 48 years,
Authorised Officer/Manager
Attur Thuluva Velalar Sangam Chit
Funds (P) Ltd.,
No.14/100-101, Thayumanavar Street,
Attur-636 102, Salem District.

.. Respondent/
Complainant

Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for records comprised in the proceedings of STC.No.167 of 2023 on the file of the Fast Track Court, Attur, and to quash the same.

For Petitioner :Mr.T.T.Ravichandran

For Respondent :Mr.Eswar Kumar



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ORDER

This petition is filed to quash the private complaint initiated under Section 138 of the Negotiable Instruments Act, 1881, on the ground that the chit transaction between the complainant and the accused was of the year 2017. Whereas the undated cheque given to the complainant been misused and presented in the 2023. Though there is legally enforceable debt to support the cheques, due to limitation the complaint is liable to be quashed.

2. The learned counsel appearing for the respondent/complainant states that pursuant to the failure to pay the chit amount, the complainant has initiated proceedings before the Deputy Registrar of Chits, Salem(East) in A.R.C.No.17 of 2022 and the same is pending. While so, under the guise of settlement, the petitioner paid a sum of Rs.14,03,882/- on 15.11.2022 and gave three cheques, (i) bearing No.128400 for Rs.9,00,000/-; (ii) bearing No.128401 for Rs.9,00,000/- and (iii) bearing No.128402 for Rs.7,00,000/-. Those three cheques on presentation on 19.07.2023 were returned with a memo 'fund insufficient'. Hence, after causing statutory notice, the complaint has been filed. Debt



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is legally enforceable and cheques were given for discharge of debt.

Having dishonoured, the petitioner is liable to be prosecuted under Section 138 of NI Act.

3. This Court on perusing the records, finds that though the chit transaction is of the year 2017. For recovery of the chit price disbursed to the petitioner herein, the complainant has already instituted recovery proceedings before the Deputy Registrar of Chits, Salem and the same is pending in A.R.C.No.17 of 2022. In the course of pending recovery proceedings, the petitioner has voluntarily paid a sum of Rs.14,03,882/- by cash and discharged the balance liability through three cheques, which are the subject matter of the complaint. These cheques were admittedly given for discharge of the liability in lieu of settlement of the dispute between the complainant and the accused pending in A.R.C.No. 17 of 2022. Therefore, the plea of the petitioner that the cheques are not supported by any enforceable liability is incorrect and legally not sustainable. Hence, this Criminal Original Petition to quash the proceedings in S.T.C.No.167 of 2023 stands dismissed.



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4. The learned counsel appearing for the petitioner states that the petitioner is 86 years old and his personal appearance before the trial Court may be dispensed with.

5. Taking note of the fact that it is the matter relating to the complaint under Section 138 of the Negotiable Instruments Act, 1881, the personal appearance of the petitioner need not be insisted on all the hearings except on effective hearing when the presence of the petitioner is necessary.

6. With the above observations, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

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Index:yes/no
Internet:yes/no
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To:



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The Fast Track Court, Attur.

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Dr.G.JAYACHANDRAN,J.



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