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Crl.O.P.Nos.14534 and 14536 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2024

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THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.O.P.Nos.14534 and 14536 of 2024
and Crl.M.P.Nos.8871 to 8874 of 2024

1. M/s.Ganesa Hi Tech Agro Foods,
Through its Partner, P.Madheshwaran,
No.124/3, Vanniyapuram, Kalpanur,
Attur, Salem - 636 102.

2. P. Madheshwaran

.... Petitioners
in both Crl.O.Ps.

Versus

S.Chandru

.... Respondent
in both Crl.O.Ps.

Common Prayer: These Criminal Original Petitions are filed under Section 482 of Cr.P.C. to call for the records pertaining to STC No.427 of 2023 and 428 of 2023 respectively on the file of the Judicial Magistrate, Thirukovilur, Kallakurichi District and quash the same.

For Petitioner : Mr.J.Rajesh



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COMMON ORDER

These Criminal Original Petitions have been filed to quash the private complaint initiated under Section 138 of the Negotiable Instruments Act.

2. The learned counsel appearing for the petitioner submitted that two void cheques given to the erstwhile Lakshmi Vilas Bank in the year 2020 after its amalgamation with DBS Bank being misused by the complainant on the connivance of the Staff of the Lakshmi Vilas Bank for lodging the complaint. Hence, the complaint *per se* is liable to be quashed.

3. The learned counsel appearing for the petitioner submitted that these two cheques are void cheques after amalgamation of Lakshmi Vilas Bank and it cannot be used for encashment. While so, these cheques dated 28.12.2022 in the account maintained by the Lakshmi Vilas Bank, two years after the Lakshmi Vilas Bank got amalgamated with DBS Bank *per se* indicated that cheques issued long back being misused by filling up the dates and amount.



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4. The contention of the petitioner creates doubt about the foundation fact of the complaint. However, that doubt cannot be taken as a proof to quash the complaint. The burden of proving foundation fact to attract the presumption against the accused may be in this case is more and heavy. However, the complainant having made out *prima facie* case to take cognizance of the complaint, it is for the trial Court to appreciate the evidence placed before it to decide whether the said cheques were given to discharge an enforceable debt or not?

5. Under Section 482 of Cr.P.C. with the available material, this Court cannot come to a final decision about the enforceable liability, which apparently made out by the complainant. Hence, these Criminal Original Petitions are dismissed.

6. The petitioner is at liberty to raise all those points before the trial Court to discharge the burden cast on the petitioner/accused under the Negotiable Instruments Act. The appearance of petitioner is dispensed with on filing a petition under Sections 205 and 313 of Cr.P.C and the trial Court



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shall summon the petitioner/accused in case of necessity while questioning them or for any other purpose, which requires their personal appearance.

Consequently, the connected Miscellaneous Petitions are closed.

24.06.2024

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To

The Judicial Magistrate,
Thirukovilur, Kallakurichi District.



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DR.G. JAYACHANDRAN, J.

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