



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

**CRL.OP.No.14047 of 2024
and
CRL.MP.Nos. 8556 & 8557 of 2024**

K.Gunasekaran

... Petitioner

Vs.

M/s.Sree Balaji Enterprises

Rep by its Partner,

V.Thiyagarajan

... Respondent

S/o.Velusamy, No.2-4/23-E, 1st Floor,

SKDS Sri Meenakshi Complex

60 Feet Road, Kumar Nagar,

Tirupur-641602.

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in STC.No.2404 of 2022 on the file of the Fast Track Judicial Magistrate, Tirupur and quash the proceedings as against the petitioner.

For Petitioner : Ms.R.A.Shinusha
for Mr. D.Anantha Padmanabhan

ORDER

The petitioner herein is an accused and private complaint initiated under Section 138 of the Negotiable Instrument Act pending in STC.No.2404 of 2022 on the file of the Fast Track Judicial Magistrate,



Tiruppur stating that the petitioner/accused has initiated insolvency petition, before the Principal Judge, Tiruppur, therefore, there cannot be any proceeding against him for recovery and he cannot be compelled to face the prosecution. Hence, STC.No.2404 of 2022 has to be quashed.

2. Perusal of the complaint reveals that the petitioner herein had trade relationship with the complainant and in the course of the transaction, he owe a sum of Rs.5,47,096/- to discharge the said debt, the petitioner had issued a cheque for Rs.2,00,000/-, which got bounced for the reason "Account closed". The cheque date is 15.11.2019 and complaint presented on 24.01.2020. The petitioner herein is the accused, in the private complaint, he has filed insolvency petition numbered as IP.No.20 of 2019 wherein he has disclosed the debt payable to the complainant herein and also the cheque issued to him. No adjudication so far in the insolvency petition done. The protection of legal proceedings against the insolvent cannot be extended for a pending criminal prosecution. Further more, the learned counsel for the petitioner submitted that insolvency petition dismissed for default and no steps taken to restore it on file.



3. Under these circumstances, there is no merit in this petition.

Hence, this petition is dismissed. Consequently, connected miscellaneous petitions are closed.

18.06.2024

Index: Yes/No

Speaking / Non-speaking Order

gv

To

1. The Fast Track Judicial Magistrate, Tirupur

2. The Public Prosecutor,
High Court of Madras,
Chennai.



WEB COPY



Dr.G.JAYACHANDRAN,J.

gv

**CRL.OP.No.14047 of 2024
and
CRL.MP.Nos. 8556 & 8557 of 2024**

18.06.2024