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Crl.O.P.No.18257 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2024

CORAM :

THE HON'BLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.18257 of 2024
and Crl.M.P.Nos.10789 and 10790 of 2024

R.Ramadass

.. Petitioner

Versus

Vijayalakshmi

.. Respondent

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records connected with complaint in S.T.C.No.217 of 2021 on the file of the learned Judicial Magistrate, Gingee and quash the same.

For Petitioner : Mr.Sathiyaraj.E

ORDER

The petitioner herein is the accused in S.T.C.No.217 of 2021 on the file of the learned Judicial Magistrate, Gingee.

2. The petitioner filed this petition to quash the case on two grounds.

Firstly, the complaint was initially filed before wrong Court i.e., the Judicial Magistrate Court, Thirukovilur and thereafter, represented before the



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Judicial Magistrate Court, Gingee, but, with a delay of 81 days. Without proper explanation and condonation of the delay, the Court has taken cognizance of the offences. Secondly, the cheque drawn on behalf of the proprietary firm. However, the proprietary firm is not arrayed as an accused in the case.

3. This Court, on perusing the records, finds that the cheque, dated 17.02.2021 was presented for collection on the same day, but, with an endorsement "insufficient funds". After causing statutory notice, the complaint has been presented before the learned Judicial Magistrate, Thirukovilur on 07.04.2024 well within the time prescribed under the Act. However, the learned Judicial Magistrate has raised a doubt regarding jurisdiction and returned the complaint. After three returns, the last return was on 16.05.2021 with an endorsement "*This Court (Judicial Magistrate Court, Thiruvkovilur) has no jurisdiction to try this complaint. Directed to file before the proper court. Hence, Returned.*" After taking the file back, the complaint has been presented before the learned Judicial Magistrate, Gingee. The seal of the learned Judicial Magistrate, Gingee indicates that it



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has been presented on 04.06.2021 and taken on file on 30.07.2021.

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Therefore, this Court finds that no delay in presenting the complaint.

4. Further, the cognizance has been taken and the matter has now posted for examination of defence witnesses. At this stage, the petitioner claims that the complaint is not maintainable since the proprietary firm is not made as an accused. On perusal of the subject cheque, this Court finds that the petitioner, Ramadass, has drawn the cheque from the account maintained in the name of RSR Groups Trading & Construction who is the proprietary of the firm. Not including the firm, which is not a juristic body, cannot be a ground to quash the complaint.

5. Hence, this Criminal Original Petition is dismissed. The petitioner is at liberty to raise all the defences available to him before the Trial Court to discharge the burden of presumption. Consequently, connected miscellaneous petitions are closed.

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Index : yes/no



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Speaking order/Non-speaking order

Neutral Citation : yes/no

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Dr.G.JAYACHANDRAN, J.

grs

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