



WEB COPY



Crl.O.P.No.24782 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2024

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.24782 of 2022
and Crl.M.P.No.15560 of 2022

E.Manikandan

... Petitioner

Vs.

R.S.V.Kartik

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the entire records in C.C.No.4198 of 2019 dated 09.04.2019 pending on the file of the III FTC, Metropolitan Magistrate Court, Saidapet, Chennai and quash the same.

For Petitioner : Mr.A.D.Janarthanan

For Respondent : Mr.M.Venkatesh Kumar

ORDER

The petitioner has filed this Criminal Original petitions to quash the proceedings in C.C.No.4198 of 2019 dated 09.04.2019 pending on the file of the III FTC, M.M.Court, Saidapet, Chennai, in which cognizance was taken for the offence punishable under Sections 138 of the Negotiable Instruments Act.



CrI.O.P.No.24782 of 2022

WEB COPY

2. The learned counsel for the petitioner submitted that originally, the respondent issued a notice on 24.12.2018 for the alleged reason that the cheque was returned for insufficient funds. The petitioner also sent his reply on 04.01.2019. Thereafter, no proceedings were initiated under Section 138 of the Negotiable Instruments Act. The respondent then presented the same cheque again on 11.03.2019 and issued another statutory notice on 12.03.2019, which was received and acknowledged by the petitioner the next day. The petitioner replied on 29.03.2019, denying that the loan borrowed by him had already been settled. Subsequently, the present complaint was filed by the respondent. According to the petitioner, there was no legal enforceable debt existing between them. Besides, presenting the cheque twice after it had already been dishonored, the respondent issued a notice and received a reply on 04.01.2019. The respondent should have initiated proceedings within 30 days from the reply, as per the provisions for the alleged offence under Section 138 of the Negotiable Instruments Act. However, contrary to the provisions of Section 142(b), the respondent issued another notice for the dishonored cheque by presenting the same cheque in March 2019. This indicates that there is no cause of action for the present



CrI.O.P.No.24782 of 2022

complaint. Despite the notice, there was no representation on the side of the respondent.

3. Considering the facts, it is revealed that the alleged cheque was presented twice by the defacto complainant. At the earlier point in time, the cheque was presented and returned with an endorsement of “insufficient funds.” A notice was then issued, and the petitioner replied in January 2019. If any cause of action arose from the said alleged cheque, it commenced on 04.01.2019. Without filing the complaint within the statutory period of 30 days from 04.01.2019, the defacto complainant presented the cheque again for collection after three months and initiated the present proceedings. This shows that there is no cause of action, as the complaint was not filed at an earlier point in time after issuance of 1st notice. The reason assigned by the petitioner is justifiable, and the proceedings are liable to be quashed.

4. Therefore, this Court is inclined to quash the proceedings in C.C.No.4198 of 2019 dated 09.04.2019 pending on the file of the III FTC, Metropolitan Magistrate Court, Saidapet, Chennai.



WEB COPY



Crl.O.P.No.24782 of 2022

T.V.THAMILSELVI, J.

rri

5. Accordingly, this Criminal Original Petition is allowed and
Consequently, the connected miscellaneous petitions is closed.

27.03.2024

Speaking Order/ Non Speaking Order

Index: Yes/ No

Neutral Citation: Yes/No

rri

To.

1.The III FTC Judge
Metropolitan Magistrate Court, Saidapet.
Chennai

2. The Public Prosecutor
High Court of Madras
Chennai 600 104

Crl.O.P.No.24782 of 2022
and Crl.M.P.No.15560 of 2022