



WEB COPY



CrI.O.P.No.26841 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.O.P.Nos.26841, 26858, 27104, 27106 of 2024 and
CrI.M.P.Nos.14893, 14896, 14912, 14935, 15027, 15029, 15021 and
15022 of 2024

Jayaraman

... Petitioner in all CrI.O.Ps.

Vs.

Thirumeni

... Respondent in all CrI.O.Ps.

Common Prayer: Criminal Original Petitions filed under Section 428 Cr.P.C./528 of B.N.S.S. to call for the records in S.T.C. Nos.9914 of 2022, 9917 of 2022, 9916 of 2022 and 9918 of 2022 pending on the file of the learned XXV Metropolitan Magistrate, Egmore and quash the same as against the petitioner.

In All CrI.O.Ps.

For Petitioner : Mr.M.Sathiavel

For Respondent : Mr.J.Deliban



Crl.O.P.No.26841 of 2024

COMMON ORDER

WEB COPY

The Criminal Original Petitions have been filed by the petitioner to quash the complaint in S.T.C. Nos.9914 of 2022, 9917 of 2022, 9916 of 2022 and 9918 of 2022 pending on the file of the XXV Metropolitan Magistrate, Egmore, as against the petitioner.

2. The case of the petitioner is that the respondent herein has preferred five complaints against the petitioner in which, the complaints in STC Nos.9914 of 2022, 9917 of 2022, 9916 of 2022 and 9918 of 2022 (4 complaints) on the file of the XXV Metropolitan Magistrate, Egmore under Section 138 and 142 of Negotiable Instruments Act, have been filed alleging that the cheques bearing No.525900 dated 30.04.2021 for Rs.3,34,000/-, No.993906 dated 18.10.2021 for Rs.5,00,000/-, No.993908 dated 16.08.2021 for Rs.5,00,000/- and No.993923 dated 16.08.2021 for Rs.5,00,000/- drawn on Indian Bank, High Court Branch, Madurai, when presented on 07.06.2021, 19.08.2021, 16.08.2021, 16.08.2021 respectively for payment through the



CrI.O.P.No.26841 of 2024

respondent's bankers, SBI Anna Nagar West Branch, Chennai, were returned for the reason "Funds Insufficient" on 08.06.2021, 19.08.2021, 17.08.2021, 17.08.2021 respectively and the respondent caused a statutory legal notice dated 27.10.2021 calling upon the petitioner to pay the said cheque amounts along with other dues payable under yet another cheque. Though the petitioner had received the said notice, since the alleged payment dues were not made, the complaints were preferred by the respondent against the petitioner.

3. The contention of the petitioner is that there is omnibus demand in the statutory notice. The respondent caused demand notice for over and above the cheque amount which makes the complaint not maintainable. Further the respondent did not cause any statutory legal notice with regard to the subject cheques instead, had mentioned a cheque bearing No.9939907 dated 19.10.2021 in the demand notice. More over, the respondent claims that the demand notice dated 27.10.2021 is a common notice for 5 cheques, but he has filed 5 separate complaints for 5 cheques wherein, the respondent has



Cr.L.O.P.No.26841 of 2024

produced/shown the demand notice dated 27.10.2021 as a common notice.

WEB COPY

Further, the notice specifies only the return of two cheques without specifying their number which renders the demand notice defective. Once the statutory notice is defect in nature, the complaint filed by the respondent would not be maintainable. He placed reliance of the order of this Court ***dated 23.10.2024 in Cr.L.O.P.No.9351 of 2024*** and also the judgements of the Hon'ble Supreme Court in ***Suman Sethi Vs. Ajay K.Churiwal (2000) 2 SCC 380 and Rahul Builders Vs. Arihant Fertilizers & Chemicals (2008) 2 SCC 321 and others.***

4. The learned counsel for the respondent submitted that whether demand notice was issued for the amounts covered under the subjects cheque or not; whether the petitioner issued the subject cheques or not and whether the petitioner paid interest or not etc. can be decided only after trial and not by invoking Section 528 of B.N.S.S. / 428 Cr.P.C.

5. Heard both sides and perused the materials available on record.



CrI.O.P.No.26841 of 2024

6. Admittedly, on the dates of presenting the subject cheques, there was

no sufficient amount in the account of the petitioner. Under these circumstances, this Court is not inclined to entertain this petition. The decisions referred to by the learned counsel for the petitioner is not applicable to the present case on hand.

7. Therefore, these Criminal Original Petitions are dismissed.

Consequently, connected Miscellaneous Petitions are closed.

8. The petitioner is at liberty to take all his defence during trial/enquiry before the trial Court.

11.11.2024

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

ksa-2

To.

The XXV Metropolitan Magistrate,
Egmore

5/6



WEB COPY



CrI.O.P.No.26841 of 2024

P.VELMURUGAN. J.

Ksa-2

CrI.O.P.Nos.26841, 26858, 27104, 27106 of 2024

11.11.2024