



Crl.O.P.No.27782 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.No.27782 of 2024 &
Crl.M.P.Nos.15425 & 15426 of 2024

Jayaraman

... Petitioner

Vs.

Thirumeni

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 BNSS, to call for the records in STC No.9915 of 2022, pending on the file of the learned XXV Metropolitan Magistrate, Egmore, and quash the same as against the petitioner.

For Petitioner : Mr.M.Sathiavel

For Respondent : Mr.J.Deliban

ORDER

Heard the learned counsel on either side and perused the materials available on record.

2. This petition has been filed to quash STC No.9915 of 2022, pending before the Hon'ble XXV Metropolitan Magistrate, Egmore, in which the petitioner is the sole accused.



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3. The respondent has filed the complaint under Sections 138 and 142 of the Negotiable Instruments Act, alleging that a cheque for Rs.5,00,000, dated 18.10.2021, was returned due to insufficient funds. A statutory demand notice under Section 138 was issued by the respondent on 27.10.2021, which was duly received by the petitioner, as evidenced by the acknowledgment card annexed to the complaint. However, the petitioner has not replied to the notice, and the signatures on the cheque are confirmed to be those of the petitioner.

4. The petitioner challenges the complaint, arguing that the demand notice is defective and that the proceedings should be quashed. The petitioner contends that there are discrepancies regarding the amount mentioned in the notice (Rs.28,16,000) compared to the amount stated in the complaint (Rs.23,34,000). Additionally, the petitioner asserts that the notice is a common notice for five cheques, which contains incorrect dates, cheque numbers, and amounts, rendering it invalid.

5. On examining the records, it is evident that the respondent has duly issued a statutory notice under Section 138 of the Negotiable Instruments Act, and the petitioner has acknowledged receipt of the notice, as evidenced by the acknowledgment card annexed to the complaint. The petitioner,



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however, did not respond to the notice, which is a requirement under the statutory provisions of the Act. Further, the petitioner has admitted that the signatures on the cheque belong to him.

6. In view of these facts, the petitioner's contention regarding the alleged discrepancies in the demand notice, such as the difference in the amount claimed, and the contention that the notice was a common notice for multiple cheques with incorrect details, is not sufficient to warrant the quashing of the complaint at this stage. Such discrepancies, if any, can be addressed and clarified during the trial, where both parties will have the opportunity to present evidence and make their respective arguments. Therefore, the petitioner is not precluded from raising these issues and presenting his defense in the course of the trial.

7. With the above observation, this criminal original petition is dismissed. Consequently, the connected miscellaneous petitions are also closed.

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Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No

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To

1. The XXV Metropolitan Magistrate,
Egmore.
2. The Public Prosecutor,
High Court, Madras.



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