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Crl.O.P.(MD)No.3100 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.(MD) No.3100 of 2022
and
Crl.M.P.(MD)No.2322 of 2022

1.V.Ramani

2.P.Prabha

... Petitioners

Vs.

S.Jaffer Sadiq

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records of the private complaint in STC.No.503 of 2019 on the file of the Judicial Magistrate Court No.I, (Fast Track Court at Magistrate Level), Madurai dated 16.10.2019 and to quash the same as illegal and for consequential orders.

For petitioners : Mr.K.R.Laxman

For Respondent : Mr.A.Ali Siddiq



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ORDER

This criminal original petition has been filed to quash the private complaint in STC.No.503 of 2019 on the file of the Judicial Magistrate Court No.I, (Fast Track Court at Magistrate Level), Madurai dated 16.10.2019.

2.The crux of the private complaint is that on 06.05.2019, the second petitioner purchased a property of the respondent at market value of Rs.40,88,275/-, wherein the first petitioner gave a cheque of IDBI Bank, bearing No.429928 for a sum of Rs.20,00,000/- and another cheque bearing No.17224 for a sum of Rs.7,88,275/-. Both the cheques were honoured and for the remaining amount of Rs.13,00,000/- was paid by the first petitioner through cheque bearing No.659929, dated 08.08.2019, which was dishonored as account closed. Hence, the respondent filed a private complaint under Sections 138 and 142 of the Negotiable Instruments Act, which was taken on file in STC.No.503 of 2019 by the Judicial Magistrate Court No.I, (Fast Track Court at Magistrate Level), Madurai. Challenging the same, the present petition has been filed by the petitioners.



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3.The learned counsel appearing for the petitioners submitted that even as per the case of the complainant, mere reading of the allegations in the complaint, an application under Sections 138 and 142 of the Negotiable Instruments Act, will not be maintainable. The instrument, which is the subject matter of the present complaint, is not belonging to the petitioners herein and the same is belongs to some other persons. That apart, the respondent has conveniently not disclosed the account number in the legal notice sent by him for the reasons best known to him. He further submitted that if the petitioners had issued the cheque, they are responsible for the same. However, in the present case, the petitioners have not at all issued the cheque and the signature found in the cheque is not the petitioners' signature. The account number mentioned in the cheque is not of either the first petitioner or the second petitioner. Therefore, he prayed to quash the present complaint.

4.The learned counsel appearing for the respondent submitted that the first petitioner herein is employed as Branch Manager in the Bank and the second petitioner purchased a property from the respondent for a sum of Rs.40,88,275/-. They issued cheque for a sum of Rs.13,00,000/- and the same was dishonored. Hence, the respondent filed the private



complaint. He further submitted that all the grounds raised in the present petition are triable issue, which cannot be agitated before this Court under Section 482 Cr.P.C. Accordingly, he prayed to dismiss the present petition.

5.Heard the learned counsel on either side and perused the materials available in the records.

6.A perusal of records reveals that the respondent herein filed a private complaint stating that the second petitioner herein purchased a property from him, for which the first petitioner issued a cheque. When the same was presented for collection, it was dishonored as account closed. Hence, he filed the complaint.

7.It is seen that the instrument, which was allegedly presented by the petitioners, is not belonging to the petitioners and the account number mentioned in the cheque is not belonging to either first petitioner or the second petitioner and the signature found in the cheque is also not belonging to the petitioners. Therefore, the impugned complaint in STC.No.503 of 2019 on the file of the Judicial Magistrate Court No.I, (Fast Track Court at Magistrate Level), Madurai dated 16.10.2019, filed



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under Sections 138 and 142 of the Negotiable Instruments Act is not sustainable one and the same is hereby quashed. The respondent is at liberty to workout his remedy in the manner known to law.

8.In the result, this criminal original petition is allowed.
Consequently, connected miscellaneous petition is closed.

15.02.2024

Index : Yes/No
Internet : Yes/No
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To

The Judicial Magistrate Court No.I,
(Fast Track Court at Magistrate Level),
Madurai.



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M.DHANDAPANI. J.

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