



Crl.O.P(MD).No.13236 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2024

CORAM :

**THE HON'BLE MR JUSTICE A.A.NAKKIRAN**

Crl.O.P(MD)No.13236 of 2020

and

Crl.M.P(MD).No.6073 of 2020

1.Dr.A.G.Eye Hospitals Private Limited,  
No.6, Officer's Colony,  
Puthur, Trichy – 620 017,  
Rep by its Managing Director,  
Dr.Kummararaj.G

2.Dr.Kummararaj.G  
S/o.Dr.Govindarajan,  
Managing Director,  
A.G Eye Care Hospital,  
Unit of Dr.A.G.Eye Hospitals Private Limited,  
No.6, Officer's Colony,  
Puthur, Trichy – 620 017. ... Petitioners / Accused Nos.1 & 2

Vs.

Lt.Col.Vijayalakshmi,  
D/o.Srivinivasan  
represented by her power of attorney holder, Mrs.Shanthi Ganesh,  
F2, “Lakshmi”, and having Door No:27/5A,  
Rajaji Street, Renga Nagar, Srirangam,  
Tiruchirappalli.

... Respondent / Complainant



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**PRAYER:-** Petition filed under Section 482 Cr.P.C., to call for the records pertaining to the case in STC.No.360 of 2020 pending on the file of the District Munsif Cum Judicial Magistrate, Srirangam, Tiruchirapalli and quash the same as illegal as against the petitioners/A1 & A2 by allowing this Criminal Original Petition.

For Petitioner: Mr.B.Janath Ahmed @ B.Janarth Kumar

For R1 : Mr.K.Sanjai Gandhi,  
Government Advocate (Crl.Side)

For R2 : Mr.D.Venkatesh

### **ORDER**

This criminal original petition has been filed to quash the impugned charge sheet in STC.No.360 of 2020 pending on the file of the District Munsif Cum Judicial Magistrate, Srirangam, Tiruchirapalli.

2. As per the case of the prosecution, the first petitioner / A1 is the Company. The second petitioner / A2 and A3 namely, Anantharaja, who is the brother of the second petitioner are the Directors of the Company. The said Anantharaja (A3) borrowed a sum of Rs.29,00,000/- from the respondent on various occasions. To discharge the said debt, he had executed two promissory notes and also issued a cheque bearing No.



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980551, which was drawn on the State Bank of India, Srirangam Branch on 23.03.2018. The respondent presented the said cheque before her Banker namely, Canara Bank, Srirangam Branch on 23.03.2020 and the same was returned on 24.03.2020 with an endorsement of “Funds Insufficient” and return memo was received by her from the bank on 27.03.2020. So, the respondent issued a legal notice on 19.02.2020, 16.03.2020 and 26.05.2020 respectively. The first petitioner issued reply notice on 23.03.2020 and 08.06.2020 respectively with false allegations. Hence, a complaint has been registered by the respondent on 24.07.2020 for the offence punishable under Section 138 of Negotiable Instruments Act, against the petitioners and the same was taken on file in S.T.C.No. 360 of 2020 by the learned District Munsif Cum Judicial Magistrate, Srirangam, Tiruchirapalli. Aggrieved by the same, present petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the alleged cheque was presented on 23.03.2020. It was returned with an endorsement of “Funds Insufficient” on 24.03.2020. The return memo given to the respondent on 27.03.2020. However, the respondent issued a legal notice on 26.05.2020 i.e., after a lapse of 45 days. it is



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barred by limitation under Section 468 of Cr.P.C. In the complaint itself, the name of the petitioners i.e, Kummararaj was not mentioned in any where. Even it is mandatory to issue legal notice to all the accused, the respondent issued legal notice to A1 alone. Apart from that, no allegation was made against the petitioners in the complaint. Hence, the complaint itself is illegal one and the proceedings initiated under Section 138 of the Negotiable Instruments Act against the petitioners is liable to be quashed.

4. The learned counsel for the respondent would submit that the first petitioner / A1 has to pay the amount. The said Anandha Raja was sent off by the Company on 29.10.2018. But, even prior to the 7 months i.e., 23.03.2018, he issued the case receipts along with a cheque. The grounds raised by the petitioner are all factual aspects and it can be decided only during the course of trial. It is a specific case of the respondent that only the petitioners issued the disputed cheque for the above said amount and that was dishonoured.

5. It is seen that the prayer sought for under Section 482 Cr.P.C is very limited and the factual aspects cannot be gone into this petition. So, the petitioners have to face the trial proceedings, before the Trial Court, as per law and they are at liberty to make all sort of defences legally.



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6. This Court finds no merit in this petition. Accordingly, the Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petition is closed.

**14.06.2024**  
**2/2**

NCC : Yes / No  
Internet : Yes / No  
Index : Yes / No

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To

The District Munsif Cum Judicial Magistrate,  
Srirangam, Tiruchirapalli



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**A.A.NAKKIRAN, J.**

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