

Crl.O.P.(MD).No.16144 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED:26.03.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.O.P(MD).No.16144 of 2021

and

Crl.M.P(MD).No.8675 of 2021

1. Neethimani

2. Menaka

... Petitioners/Accused

Vs.

1. Arunkumar

2. The Deputy Superintendent of Police,
Economic Offences Wing,
Ramanathapuram.

... Respondent/Complainant

(R2 is suo-motu impleaded as per order of the Court dated
27.04.2023 in Crl.O.P(MD).No.8477 of 2021, 22744 of
2022 and 16144 of 2021)

PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records in STC No.6/2021, pending on the file of Hon'ble Judicial Magistrate No.1, Ramanathapuram and quash the same.



WEB COPY



Crl.O.P.(MD).No.16144 of 2021

For Petitioners

: Mr.S.Prabakaran,
Senior Counsel
for M/S.J.Sathiaraj

For Respondents

: Mr.A.John Vincent
for R1
: Mr.S.Ravi,
Additional Public Prosecutor,
for R2

ORDER

The petitioners, who are the Accused Nos.1 and 2 in S.T.C.No.6 of 2021, on the file of the learned Judicial Magistrate No.1, Ramanathapuram, filed this petition to quash the proceedings in S.T.C.No.6 of 2021, on the file of the learned Judicial Magistrate No.1, Ramanathapuram.

2.The case of the prosecution is that the petitioners are partners of the Firm Bullion Fintech LLP at Chennai and they are running Mr.Anand of Angayoan Enterprises at Ramanathapuram. They introduced the first respondent to Bullion Fintech LLP and the said company collected huge money from the public by giving false promise and they would repay the amount with huge interest and cheated all the depositors through the first respondent. Thereafter, they gave cheques to the complainant and the same was presented to the IDBI

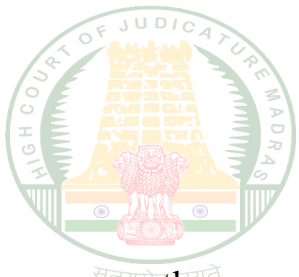


Crl.O.P.(MD).No.16144 of 2021

WEB COPY

Bank, Ramanathapuram. It was returned with endorsement as “Refer to Drawer” and they had usurped the entire investments. Hence, the first respondent filed a private complaint in S.T.C.No.6 of 2021, before the learned Judicial Magistrate No.1, Ramanathapuram, for the offence under Section 138 r/w 142 of Negotiable Instruments Act. To quash the same, the present petition has been filed.

3.The learned counsel appearing for the petitioners submitted that the cheque was issued for discharging the financial liabilities. He further submitted that as per the complaint, in the legal notice of the respondent, he admitted about the date of issuance of cheque was on 19.03.2020 and the same was deposited on 20.11.2020. Hence, the cheque has been issued after a lapse of 9 months from the date of signing the cheque which is against the guidelines of the Reserve Bank of India. The cheque issued in favour of the first respondent is in connection with a crime No.347 of 2020 and the same is pending investigation before the Economic offence wing, Madurai and transferred investigation in FIR No.2 of 2020 to TNPID Court, Madurai. Hence, the allegation in the present complaint in S.T.C.No.6 of 2021 and Crime No.2 of 2020 are one and the same. Hence, the complaint in S.T.C.No.6 of 2021, on the file of the Judicial Magistrate No.1, Ramanathapuram is unsustainable. Hence, he seeks to quash



Crl.O.P.(MD).No.16144 of 2021

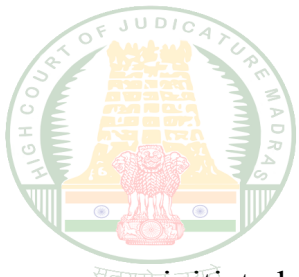
the same.
WEB COPY

4.The learned counsel appearing for the first respondent the above factual aspects cannot be gone into in the petition filed under Section 482 Cr.P.C. and this defence of discharge can very well be proved before the trial Court. Hence, he seeks to dismiss this petition.

5.The learned Additional Public Prosecutor appearing for the second respondent reiterated the submission of the learned counsel appearing for the first respondent. Hence, he seeks to dismiss the petition.

6.This Court considered the rival submission made by the learned counsel appearing on either side and perused the materials available on record.

7.From the record, there is a specific averment in the complaint that the petitioners issued a cheque for discharging their liability. “Whether the cheque was issued towards liability is or not” is matter to be adjudicated during the course of trial. Hence, this court finds no merit in the quash petition on the ground that the petitioner did not make any case to quash the proceedings



Crl.O.P.(MD).No.16144 of 2021

initiated under S.T.C.No.6 of 2021.

WEB COPY

8.Accordingly, this Criminal Original Petition is dismissed. Consequently,
the connected criminal miscellaneous petition is closed.

26.03.2024

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

To

1. The Judicial Magistrate No.1,
Ramanathapuram.
2. The Deputy Superintendent of Police,
Economic Offences Wing,
Ramanathapuram.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



Crl.O.P.(MD).No.16144 of 2021

K.K.RAMAKRISHNAN, J.

vsg

Crl.O.P(MD).No.16144 of 2021
and
Crl.M.P(MD).No.8675 of 2021

26.03.2024