



Crl.O.P(MD).No.17089 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2024

CORAM :

THE HON'BLE MR JUSTICE A.A.NAKKIRAN

Crl.O.P(MD)No.17089 of 2021

and

Crl.M.P(MD).Nos.9270 & 9271 of 2021

Raja @ Raja Amarnath

... Petitioner / Accused

Vs.

J.Sumathi

... Respondent / Complainant

PRAYER:- Petition filed under Section 482 Cr.P.C., to call for the records in S.T.C.No.5175 of 2019 on the file of the learned Judicial Magistrate No.4, Trichy and quash the same.

For Petitioner : Mr.R.Sundar

For Respondent : Mr.K.M.Karunakaran

ORDER

This criminal original petition has been filed to quash the impugned charge sheet in S.T.C.No.5175 of 2019 on the file of the learned Judicial Magistrate No.4, Trichy.



Crl.O.P(MD).No.17089 of 2021

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2.The case of the prosecution is that the petitioner and the respondent are well known to each other. The petitioner intended to purchase a house at Apartment namely, 'Monica Sivalaya'. The total sale consideration of the above said house is Rs.1,02,00,000/-. After paying the amount through cash and bank, he has to pay a sum of Rs.40,00,000/- to the respondent. For that, he issued a cheque dated 29.07.2019 drawn on the bank of Axis Bank, Srirangam Branch. The respondent presented the said cheque before her Bank on the same day itself and the same was returned on 30.07.2019 with an endorsement of "Funds Insufficient". So, the respondent issued a legal notice on 07.08.2019 and the same was received by the petitioner on 09.08.2019. Though, he has not sent any reply and made any payment. In such circumstances, the respondent filed a complaint under Section 138 of Negotiable Instruments Act before the learned Judicial Magistrate No.4, Trichy. The learned Judicial Magistrate has taken the complaint on file in S.T.C.No.5175 of 2019. Challenging the same, the present petition has been filed.



Crl.O.P(MD).No.17089 of 2021

WEB COPY

3. The learned counsel appearing for the petitioner submitted that the respondent alleged that the petitioner is liable to pay balance sale consideration of Rs.40,00,000/-. But, to prove the same, she has not filed any supported documents. He further submitted that without mentioning the cheque number and its other details, the respondent issued statutory legal notice dated 07.08.2019. It is an inherent legal defect under Revisional jurisdiction. To support of his contention, he relied upon a judgment of this Court in the case of **G.Sivagnanam Vs. Raja** reported in **2024(1) MWN (Cr.) DCC 11(Mad.)**. Accordingly, he prayed to quash the impugned charge sheet.

4. Per contra, the learned counsel appearing for the respondent submitted that even though the cheque number was not mentioned in the legal notice, it was also mentioned in the complaint. He further submitted that there are materials available to proceed with the case as against the petitioner herein. The grounds raised by the petitioner are all factual in nature and hence, he prayed for dismissal of the petition.

5. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondent.



Crl.O.P(MD).No.17089 of 2021

6. The learned Magistrate, after perusal of records, has taken the complaint on file in S.T.C.No.5175 of 2019. The points raised by the petitioner are the triable issues and the same has to be decided only by the trial Court. The petitioner is having right to put forth his defence. Hence, the petition is liable to be dismissed.

7. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

12.06.2024

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
dss



Crl.O.P(MD).No.17089 of 2021

To

The Judicial Magistrate No.4,
Trichy.



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Crl.O.P(MD).No.17089 of 2021

A.A.NAKKIRAN, J.

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Crl.O.P(MD)No.17089 of 2021
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12.06.2024