



Crl.M.P(MD)No.12042 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Twelfth day of November Two Thousand and Twenty Four

PRESENT

The HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.M.P(MD)No.12042 of 2024

in

CRL.O.P(MD)No.19515 of 2024

MAHENDRAN

... PETITIONER/PETITIONER

Vs

UMA MAHESWARI

... RESPONDENT/RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Stay all the proceeding in the case in C.c.No.53/2023 on the Fast Track Court at Magistrate Level, Karaikudi, Sivagangai District pending disposal of the Criminal Original Petition.

Prayer in CRL OP(MD). 19515/ 2024 :

To call for the records in the case in C.c.No.53 of 2023 on the file of the Fast Track Court at Magistrate Level, Karaikudi, Sivagangai District and Quash the same as illegal, violation of law and an abuse process law.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S. JOTHI BASU.M, Advocate for the petitioner, while admitting the Criminal Original Petition the court made the following order:-

The petitioner/accused, who is facing trial for the offences under Section 138 of

Negotiable Instruments Act in C.C.No.53 of 2023 on the file of the Fast Track Court at

<https://www.mhc.tn.gov.in/judis>



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Magistrate Level, Karaikudi, Sivagangai District, has filed the quash petition, primarily on the ground that statutory notice is not issued within 30 days as per the provision of Section 138(b) of the Negotiable Instruments Act.

2. The learned counsel for the petitioner/accused submitted that the petitioner and the respondent are friends having business dealings and there was dispute with regard to Rs.12 lakhs between them. He would further submit that under Section 138 (b) of the Negotiable Instruments Act, 1881, notice has to be issued within 30 days from the date of dishonor of cheque. In this case, notice was issued on 06.03.2023 demanding the accused to pay a sum of Rs.12 lakhs and hence, it cannot be considered as a statutory notice. The respondent's case proceeds based on statutory notice dated 06.03.2023 and taking cognizance on the defective notice is bad in law.

3. In support of his contention, the learned counsel has relied upon the judgment of the Apex Court in Rahul Builders Vs. Arihant Fertilizers and Chemical and Another reported in (2008)1 MLJ (Crl.)1040 (SC) especially paragraph No.4 of the said judgment.

4. This Court finds force in the submission of the learned counsel for the



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petitioner. Hence, there shall be an order of interim stay of all further proceedings in
C.C.No.53 of 2023 on the file of the Fast Track Court at Magistrate Level, Karaikudi,
Sivagangai District.

5.Notice.

sd/-
12/11/2024

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/11/2024

Sub-Assistant Registrar (CS-I / II /III/ IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

cm

TO
THE JUDGE, FAST TRACK COURT AT MAGISTRATE LEVEL, KARAIKUDI,
SIVAGANGAI DISTRICT

+1 CC to M/s.G.M.LAW OFFICE, Advocate (SR-14012[I] dated 14/11/2024)

ORDER
IN
Crl.M.P(MD)No.12042 of 2024
in
CRL.O.P(MD)No.19515 of 2024
Date :12/11/2024

RK/VR (27/11/2024) 3P / 3C
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