



Crl.OP.No.22176 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.22176 of 2024
and
Crl.MP.Nos.12664 and 12665 of 2024

Arumugam

... Petitioner

Vs.

Kannimuthu

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the impugned S.TC.No.2424 of 2022 on the file of the Fast Track Court at Magisterial Level, Tiruppur and quash the same.

For Petitioner : Mr.S.Sriram

For Respondent : No appearance
(Notice Served)

ORDER

This petition has been filed to quash the proceedings in S.T.C.No.2424 of 2024 on the file of the learned Fast Track Court at Magisterial Level, Tiruppur.



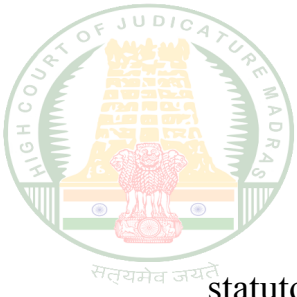
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2. Though notice was served on the respondent and his name also printed in the cause list, no one was appeared before this Court neither in person nor through Advocate.

3. The petitioner is an accused in the complaint filed by the respondent for the offence under Section 138 of the Negotiable Instruments Act. The respondent has alleged that the petitioner borrowed a sum of Rs.2,00,000/- as a hand loan for urgent business expenses and assured repayment with interest on the date of borrowal. Subsequently, the petitioner issued post-dated cheques in favour of the respondent. Upon instructions, the said cheque was presented for collection but was returned dishonoured with the endorsement “funds insufficient.”

4. Pursuant to this, the respondent claims to have issued a statutory notice and thereafter filed a complaint. However, the petitioner contends that only a private notice was served by the respondent. The learned counsel for the petitioner raised a specific ground that the statutory notice was not served, as it was sent to an incorrect address. In fact, the



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statutory notice was returned with the postal endorsement “insufficient address.”

5. A perusal of the statutory notice and the complaint reveals that the petitioner's address was stated as: Arumugam, S/o Murugasamy, S.R. Nagar, opposite to Kumaran College, Mangalam Road, Tiruppur. However, in the private notice served on the petitioner, the address was clearly mentioned as: Arumugam, S/o Murugasamy, No.2/932, First Floor, Nethaji Nagar, Main Road, S.R. Nagar, Mangalam Road, Tiruppur-641687.

6. This discrepancy shows that the statutory notice was not served upon the petitioner at the correct address as required under law. In order to attract the offence under Section 138 of the Negotiable Instruments Act, the four ingredients have required to be forthwith : the cheque must be issued for a legally enforceable debt, be dishonored by the bank, a demand notice must be sent, and the drawer must fail to pay within 15 days of the notice. Thus, issuance and service of a valid statutory demand notice is a mandatory precondition for the cause of action to arise under



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Section 138 of the Negotiable Instruments Act. In the present case, since no such statutory notice was served on the petitioner, the proceedings initiated in STC.No.2424 of 2022 cannot be sustained and are liable to be quashed.

7. Accordingly, the proceedings in STC.No.2424 of 2022 on the file of the Fast Track Court at Magisterial Level, Tiruppur, is hereby quashed and the Criminal Original Petition stands allowed. Consequently, connected Miscellaneous Petitions are also closed.

21.04.2025

Vv

To

1. The Fast Track Court at Magisterial Level, Tiruppur
2. The Public Prosecutor, High Court of Madras
Chennai 600 104.



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G.K.ILANTHIRAIYAN, J.

Vv

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