

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.06.2015
DELIVERED ON : 03.07.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.O.P.No.15838 of 2015
and M.P.No.1 of 2015

Vincent

..Petitioner

Vs

1.The Inspector of Police
Thirumullaivoil Police Station
Chennai.

2.Saraswathi.

.. Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C.,
to call for the records in STC No.246 of 2013 on the file of the
Hon'ble Judicial Magistrate, Poonamallee and to quash the same.

For Petitioner Mr.K.Shakul Hameed
For R1 Mr.C.Emalias,
Addl. Public Prosecutor

ORDER

This petition has been filed to to call for the records in STC
No.246 of 2013 on the file of the Hon'ble Judicial Magistrate,
Poonamallee and to quash the same.

2. Heard the learned counsel for the petitioner and the learned
Additional Public Prosecutor appearing for the State.

3. For the sake of convenience, the parties will be referred to
as the complainant and the accused.

4. It is the case of the complainant that the accused is a member
of the Railway Protection Force and that he borrowed a sum of Rs.5
lakhs from her and executed a promissory note for the said amount.
Towards this debt, the accused gave two cheques dated 02.05.2015 and
10.05.2013 for Rs.2,50,000/- each, which when presented were
dishonoured. The complainant issued a statutory notice under Section
138 of the Negotiable Instruments Act and on the failure of the
accused to repay the amount, lodged a complaint before the Judicial
Magistrate, Poonamallee in STC No.246/2013, challenging which the
accused is before this Court.

5. The learned counsel for the accused submitted that, the accused has given a complaint to the police on 31.05.2013 alleging that, the impugned cheques were illegally taken away from him by the complainant and that he has also filed a direction petition in CrI.O.P.No.15520 of 2013 before this Court for a direction to the police to register a case on his complaint. This Court while disposing of CrI.O.P.No.15520 of 2013 has directed the police to look into the complaint and if it discloses commission of a cognizable offence, take action in accordance with the law laid down by the Supreme Court in Lalita Kumari vs. Government of Uttar Pradesh [2013 (4) [crimes] 243 (SC)].

6. It is to be noted that this Court has not directed the police to register an FIR. It is common knowledge that, after issuance of cheques, in order to repudiate them, people lodge police complaints. In fact, in D.P.Gulati v. State of Uttar Pradesh [(2015) 4 Scale 373], the Supreme Court has quashed an FIR on the ground that, the defacto complainant who is an accused in a prosecution under Section 138 of the Negotiable Instruments Act, has lodged a false complaint for torpedoing the prosecution launched against him.

7. The learned counsel for the accused further submitted that the complainant has lodged a complaint against the wife of the accused, who obtained anticipatory bail in CrI.O.P.No.21009 of 2013. This Court finds that there are no materials to stifle the prosecution against the accused. The accused is a serving RPF personnel and the complainant is a lady. The complaint discloses that the accused borrowed money from her on promissory note and the cheques given by him were dishonoured. This Court cannot go into disputed questions of fact as held by the Supreme Court in S.Krishnamoorthy v. Chellammal 2015 (4) Scale 371.

In the result, this petition is devoid of merits and the same is dismissed. Consequently, connected miscellaneous petition is closed.

gms

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1.The Inspector of Police
Thirumullaivoil Police Station
Chennai.

2. The Judicial Magistrate,
Poonamallee .
3. The Chief Judicial Magistrate,
Thiruvallur.
4. The Public Prosecutor
High Court, Madras.

gj (co)
prk16/7

Cr1.O.P.No.15838 of 2015



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