

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.07.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.17836 of 2015

and MP.Nos.1,2 of 2015

A.R.Balasaraswathy

... Petitioner

Vs

G.Thangam

... Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records in CC.No.1694 of 2015 on the file of the FTC-II, Metropolitan Magistrate, Egmore, Chennai and quash the same.

For Petitioner : Mr.S.Sadasharam

O R D E R

This petition has been filed to quash the proceedings in CC.No.1694 of 2015 on the file of the FTC-II, Metropolitan Magistrate, Egmore, Chennai.

2. Heard the learned counsel for the petitioner and perused the materials placed on record.

3. It is seen that the petitioner had borrowed Rs.6 lakhs from the respondent and on discharge of the said liability, the petitioner had given a cheque for Rs.6 lakhs which when presented by the complainant, was returned unpaid on the ground that the account was closed.

4. Mr.S.Sadasharam, learned counsel appearing for the petitioner/ accused submits that the complaint does not disclose the date on which the debt was incurred by the complainant. That apart, the learned counsel submitted that the account was closed by the accused on 28.03.2014 and therefore, the cheque would not have been issued by the accused on 27.09.2014 and therefore, the prosecution has been vitiated.

5. It is trite law that even when the account is closed, prosecution under Section 138 of Negotiable Instruments Act is maintainable. That apart, whether there is a debt or not is a question of fact, which cannot be interfered in a proceedings under Section 482 Cr.P.C as held by the Hon'ble Supreme Court in S.Krishnamurthy Vs Chellammal [2015] 4 Scale 371.

6. Hence, this Court cannot go into disputed question of facts and this petition is dismissed, with liberty to the petitioner to raise all the points before the Trial Court.

-sd/-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To,

1.The Metropolitan Magistrate,
Fast Track, Court II Egmore, Chennai

2.Do-The Chief Metropolitan Magistrate
Chennai

+1 cc to Mr.S.Sadasharam, Advocate sr.36754

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सत्यमेव जयते

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