

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.S.RAMANATHAN

CrI.O.P. No.4970 of 2010

and

M.P.No.1 of 2010

U.Joseph Ivan

... Petitioner /Accused

Vs.

Mrs.Ambika Doss

... Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for the records in C.C.No.349 of 2009 on the file of the learned Judicial Magistrate, No.1, Poonamallee and quash the same.

For Petitioner : Mr.J.Selvarajan

O R D E R

The petitioner is the accused in C.C.No.349 of 2009 on the file of the learned Judicial Magistrate No.I, Poonamallee. The respondent filed the above complaint under section 138 of the Negotiable Instruments Act and this petition is filed to quash the same.

2. It is submitted by the learned counsel for the petitioner that even as per the notice issued by the respondent/complainant calling upon the petitioner to pay the amount due under the cheque, it was admitted that the cheque was obtained by coercion in the police station and therefore, there was no legally enforceable debt payable by the petitioner to the respondent and the cheque was obtained by coercion in the presence of police and therefore, it has to be quashed.

3. I am unable to accept the contention of the learned counsel for the petitioner. No doubt, in the notice issued by the respondent to the notice issued by the petitioner, the respondent stated that during enquiry at R - 7 Police Station, K.K.Nagar, Chennai, the petitioner gave assurance to return 11 sovereigns of gold jewelry and Rs.2 lakhs within a period of six months. It is also stated that the petitioner issued two post-dated cheques dated 28.2.2009 and 30.04.2009 in the Police Station. According to me,

even assuming that the cheques were issued in the Police Station, in the absence of any evidence that the cheques were issued under threat or coercion or under duress, it cannot be presumed that the cheque was not towards legally enforceable liability. It is for the petitioner to substantiate his case during trial and at this stage, the contention of the petitioner that the cheques were obtained by coercion or under duress, cannot be countenanced.

4. Hence, the petition is dismissed. The connected Miscellaneous Petition is closed. Liberty is given to the petitioner to establish his case during trial.

The trial Court is directed to dispose of the proceedings in C.C.No.349 of 2009 on merits and in accordance with law within a period of four months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

asvm

To
Judicial Magistrate No.1,
Poonamallee.

Crl.O.P. No.4970 of 2010
and
M.P.No.1 of 2010

ala(co)
pmk.23.6.2015

सत्यमेव जयते

WEB COPY