

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.24545 of 2015

and

M.P.Nos.1 & 2 of 2015

Santha Moorthy ...Petitioner/Accused

Vs.

Coumaravelou @ Bharathi ...Respondent/Complainant

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for the records pending on the file of the learned Judicial Magistrate No.II, Puducherry, Union of Puducherry in S.T.C.No.686/2015 and quash the Criminal Proceeding.

For Petitioner : Mr.E.Kannadasan

O R D E R

This criminal original petition has been filed to call for the records pending on the file of the learned Judicial Magistrate No.II, Puducherry, Union of Puducherry in S.T.C.No.686/2015 and quash the Criminal Proceeding.

2. Heard the learned counsel appearing for the petitioner.

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

4. It is the case of the complainant that he and the accused were partners in a Shrimp Firm and during the course of business, some differences arose between them; and that, the accused agreed to settle the complainant's share and in discharge of the liability, he gave the impugned cheque dated 03.07.2014 for Rs.10,00,000/- which when presented was dishonoured for "insufficiency of funds". The complainant

issued a statutory notice on 23.07.2014, for which, the accused gave a reply dated 02.08.2014.

5. Mr.E.Kannadasan, learned counsel appearing for the petitioner submitted that there is no privity of contract between the complainant and the accused, inasmuch as one Rajkumar had executed a complete relinquishment deed dated 28.12.2012 itself in respect of Shrimp Firm business.

6. On a perusal of the document dated 28.12.2012, neither the complainant nor the accused are signatory to it.

7. Mr.E.Kannadasan, learned counsel appearing for the petitioner further submitted that a case in Crime No.443 of 2014 has been registered against four persons on the complaint given by Sokkammal, who is the mother of the accused herein, for the offences under Sections 147, 148, 448, 294(b), 506(ii) I.P.C wherein, it is alleged that the said Vijay had obtained some cheques from the accused. Even in FIR in Crime No.443 of 2014, the petitioner is not an accused.

8. The contention of the learned counsel for the petitioner that the complaint has been filed only as a counter blast for the case in Crime No.443 of 2014 cannot be appreciated in a quash petition. This Court, while dealing with Section 482 Cr.P.C, cannot go into disputed questions of fact as held by the Hon'ble Supreme Court in 2015(4) SCALE 371 (S.Krishnamoorthy Vs.Chellammal).

In the result, the criminal original petition is dismissed as devoid of merits. Liberty is given to the petitioner/accused to raise all the points before the trial Court. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

sms

To

The Judicial Magistrate No.II,  
Puducherry,  
Union of Puducherry.

1 CC to Mr.E.Kannadasan, Advocate SR.No. 54563

CRL.OP.No.24545 of 2015  
and  
M.P.Nos.1 & 2 of 2015

SAI (CO)  
PSI (15.10.2015)



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