

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Crl.O.P.No.26822 of 2015
and M.P.Nos.1 and 2 of 2015

R.Kamalakumar

... Petitioner

Vs

B.Karthikeyan

... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in C.C.No.1931 of 2015 from the file of learned Metropolitan Magistrate, Fast Track Court-II, Egmore, Chennai-8 and quash the same.

For Petitioner : Mr.G.Appavu

ORDER

The present criminal original petition has been filed to call for the records in C.C.No.1931 of 2015 from the file of learned Metropolitan Magistrate, Fast Track Court-II, Egmore, Chennai-8 and quash the same.

2. The petitioner is an accused in a private complaint filed by the respondent / complainant under Section 138 of the Negotiable Instruments Act, pending on the file of the learned Metropolitan Magistrate, Fast Track Court-II, Egmore, Chennai-8.

3. The case of the complainant is that the petitioner is the co-worker of his father. On 1.6.2013, the petitioner approached the complainant for a hand loan of Rs.3,00,000/- for his emergent family expenditures with a promise to repay the same within a period of six months from the aforesaid date. On the basis of the promise made by the petitioner, the complainant lent a sum of Rs.3,00,000/- to the petitioner by cash. But, even after the agreed period of six months, without making any kind of payment towards the said loan, the petitioner approached the complainant again on 8.1.2014 seeking further period of one year to settle the entire loan. But, the complainant refused to do so. When the complainant refused to give time, the petitioner himself came forward to settle the loan by issuing a cheque for

a sum of Rs.3,00,000/- bearing No.380100 drawn on State Bank of India, Ayanavarm Branch, Chennai. When the complainant presented the cheque for collection with State Bank of India, I.C.F. Branch, Villiwalkam, Chennai on 22.1.2015, the same was returned and dishonoured for the reason 'Funds insufficient'. Hence, the complainant filed a complaint before the K.7 Police Station I.C.F., as against the petitioner on 31.1.2015. During enquiry, the petitioner requested ten days time for repayment of the entire loan amount including the cheque amount. Thereafter, on 12.2.2015, the petitioner proposed that he would pay only an amount of Rs.3,00,000/- as full and final settlement to the complainant and requested him to present the same cheque on 17.2.2015. Accordingly, the complainant presented the cheque with his banker on 17.2.2015. But, once again it was returned for the reason 'funds insufficient'. Thereafter, the complainant issued a statutory notice on 2.3.2015 calling upon the petitioner to pay the amount within a period of 15 days from the date of receipt of the notice. After receipt of the notice, the petitioner has not come forward to pay the amount. Hence, he has filed a complaint and the same was taken on file as C.C.No.1931 of 2015. Now, the petitioner has come forward with the present petition to quash the said proceedings.

4. It is the main submission of the learned counsel appearing for the petitioner that the petitioner is employed as Senior Technician in Wagon workshop, I.C.F., Ayanavaram, Chennai-23. The father of the complainant viz., Balashanmugam is also employed in I.C.F. Spring section and he used to lend money to the employees by obtaining signed blank cheques and used to collect usurious rate of interest. On 4.2.2013, the petitioner borrowed a sum of Rs.2,00,000/- from the said Balashanmugam to meet the marriage expenses of his son. Thereafter, the petitioner further demanded a sum of Rs.3,00,000/- from the said Balashanmugam and after deducting a sum of Rs.40,000/- towards arrears and a sum of Rs.20,000/- towards advance interest, he paid a sum of Rs.2,40,000/- on 3.1.2014. He has also obtained signed blank stamp papers and a blank cheque for the security of the said amount. Though the petitioner has repaid a sum of Rs.4,50,000/-, again he demanded huge amount by coercion and undue influence. Hence, the petitioner lodged a complaint before the Commissioner of Police. In the meantime, the said Balashanmugam had forged the blank cheque and signed stamp papers and filed a suit in O.S.No.3390 of 2015. In the said suit, the petitioner herein filed a leave to defend petition and the same was dismissed. Now, with the false allegations, the present complaint has been filed by the complainant. Thus, he sought for quashing the proceedings in C.C.No.1931 of 2015.

5. However, I am of the considered opinion, the scope of Section 482 Cr.P.C. to quash the proceedings in a case is very limited. If the allegations made in the complaint do not constitute any offence, then the proceedings in this case can be quashed. Here, in the instant case, on a reading of the complaint, in my considered opinion, the allegations made in the complaint prima facie constitutes an offence under Section 138 of the Negotiable Instruments Act. The submissions made by the learned counsel appearing for the petitioner may be of his defence, which have to be agitated only during the course of trial. Therefore, I am of the opinion, no case has been made out by the petitioner within the purview of Section 482 of Cr.P.C. warranting this Court to quash the proceedings in C.C.No.1931 of 2015.

6. In fine, the criminal original petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

sbi

To

- 1.The Metropolitan Magistrate,
Fast Track Court-II,
Egmore, Chennai-8.
- 2.-do- Thro'The Chief Metropolitan Magistrate,
Egmore, Chennai.

CrI.O.P.No.26822 of 2015

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