

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2015

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The Hon'ble Mr. Justice R.S.Ramanathan

Crl.O.P.No.12238 of 2009
and
M.P.Nos.1 & 2 of 2009

C.Palanisamy

...Petitioner/Accused

vs.

P.Muthuraja

...Respondent/Complainant

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code to set aside the order passed in C.R.P.No.6 of 2009, dated 06.04.2009, on the file of the Additional District and Sessions Judge, Fast Track Court No.2, Coimbatore, in confirming the order passed in C.M.P.No.4085 of 2008, dated 11.12.2008, pending trial in C.C.No.99 of 2007, on the file of the learned Judicial Magistrate No.II, Pollachi.

For Petitioner : Mr.M.N.Balakrishnan

For Respondent : Mrs.P.T.Ramadevi

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The petitioner is the accused in C.C.No.99 of 2007, on the file of Judicial Magistrate Court No.II, Pollachi.

2. The respondent/complainant filed the abovesaid case against the petitioner, for offence under Section 138 of Negotiable Instruments Act, 1881, and the petitioner, after entering appearance, filed C.M.P.No.4085 of 2008, under Section 45 of Evidence Act, for sending documents for obtaining Expert's opinion, stating that the date, name of the payee and the amount were written by some other person, and not by the Drawer/petitioner, and to find out the same, the documents have to be sent for Expert's opinion. The said Petition, viz., C.M.P.No.4085 of 2008, was dismissed, and the Revision filed by the petitioner, viz., Crl.R.C.No.6 of 2009, on the file of the Additional District and Sessions Judge, Fast Track Court No.2, Coimbatore, was also dismissed. Aggrieved by the same, the present Criminal Original Petition is filed.

3. It is submitted by the learned counsel appearing for the petitioner that the petitioner has executed two blank promissory notes and two unfilled signed cheques to the respondent/complainant while borrowing Rs.2,00,000/- from him, and after repaying the said amount, he demanded return of those two blank promissory notes and signed two blank cheques, and the respondent without returning the same, misused the cheques and filed the present complaint against the petitioner, by writing the name of the payee, date and amount, and to prove the same, those documents have to be sent for Expert's opinion, and if the Expert is able to give opinion that the writings in the body of the cheques are different from the signature of the petitioner, that would prove the case of the petitioner. These aspects were not properly appreciated by the Courts below. Hence, the learned counsel prayed for allowing this Petition.

4. On the aforesaid submission, heard the learned counsel appearing for the respondent.

5. I am unable to accept the contentions of the learned counsel for the petitioner. It is admitted by the petitioner that the cheques were signed by him. His only contention is that the cheques were not filled by him, and it was filled by the respondent/complainant by some other person. Under law, when a blank cheque is given, authority is given to the holder of the cheque to fill the cheque, and therefore, even accepting the case of the petitioner that he issued blank cheques, and the cheques were filled up by the respondent, that would not be a ground for discharging the petitioner/accused from liability, and the complaint cannot be quashed on that ground. These aspects were properly appreciated by Courts below and I do not find any reason to interfere with the same.

6. In the result, the Criminal Original Petition is dismissed. Consequently, connected M.Ps. are closed.

Sd/-

Assistant Registrar

True Copy सत्यमेव जयते

Sub Assistant Registrar

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To

1. The Additional District and Sessions Judge,
Fast Track Court No.2, Coimbatore,

2.-do- Thro The Principal Sessions Judge, Coimbatore.

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3. The Judicial Magistrate No.II,
Pollachi.

4.-do- Thro The Chief Judicial Magistrate, Coimbatore

1 cc to Mr.M.N.Balakrishnan , Advocate Sr.No.26748

1 cc to Mr.V.Bharathidasan , Advocate Sr.No.26913

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ctk(Co)
pmk.14.7.2015



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