

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.S.RAMANATHAN

Crl.O.P. No. 22669 of 2009

M.Rajasekar

...Petitioner

vs.

K.C.Gunasekaran

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for the records in C.C.No.112 of 2008 on the file of the learned Judicial Magistrate No.VII, Coimbatore, and quash the proceedings therein.

For Petitioner : Mr. C.S.Dhanasekaran

For Respondents : Mr. M. Devaraj

O R D E R

This Petition is filed to quash the case in C.C.No.112 of 2008 on the file of the learned Judicial Magistrate No.VII, Coimbatore.

2. It is submitted by the learned counsel for the petitioner that there is no valid complaint filed before the learned Judicial Magistrate by the respondent and the complaint was not duly stamped nor contained the signature of the advocate or the seal of the Court or the date on which it was taken cognizance. He therefore submitted that in the absence of any valid complaint, the case should not be allowed to proceed further and on that ground, the case is liable to be quashed. He also submitted that during the cross-examination, PW.1 also admitted that he produced only notary copy of the promissory note as well as cheque along with the complaint and no original documents were filed by him and therefore, the case should not be allowed to proceed further and on that ground also the case is liable to be quashed. In support of his contention, he also relied upon the judgment reported in (2008) 12 Supreme Court Cases 531 in the matter of Gorige Pentaiah Versus State of Andhra Pradesh and others.

3. Heard the learned counsel appearing for the petitioner as well as the respondent.

4. The entire case records were sent for and it is seen from the court records that the complaint was signed by the complainant but the signature of the advocate was not found. However, the complaint was returned by the Court on 14.5.2004 for compliance of certain defects and that was complied with and it was re-presented. Though there was no seal in the complaint copy, even in the bundle, it is seen that on 19.7.2004, sworn statement was taken and process was issued to the petitioner herein and he was also questioned on 9.9.2004. Thereafter, PW.1 / the defacto complainant was examined and he marked promissory note as Ex.P.1, the cheque as Ex.P.2 and bank documents as other Exhibits. It is also seen from the case bundle that the original promissory note and the original cheque are available. Therefore, it cannot be construed at this stage that there was no valid complaint on the ground that the complaint did not contain the seal of the Court. Hence, the contention of the learned counsel for the petitioner cannot be accepted.

5. The judgment reported in (2008) 12 Supreme Court Cases 531 relied upon by the learned counsel for the petitioner cannot be applied to the facts of the case. The learned counsel, particularly, relied upon Paragraphs 14 and 19 in that judgment, wherein it has been held that where it manifestly appears that there is a legal bar against the institution or continuance of the proceedings, courts should exercise its inherent power to quash the proceedings. In the present case, I do not find any illegality as stated above and the complaint was taken on file and sworn statement was recorded by the learned Judicial Magistrate on 19.7.2014 and the petitioner herein was summoned and questioned on 9.9.2004. Hence, I find no merit in the contention of the learned counsel for the petitioner.

6. In the result, this petition is dismissed.

Sd/-

Deputy Registrar(J)

//True Copy//

Sub Assistant Registrar

asvm

To

1. The Judicial Magistrate No.VII,
Coimbatore.

2. The Chief Judicial Magistrate,
Coimbatore.

3. The Section Office,
Criminal Section, High Court,
Madras.

(To return the case bundle received from the trial court)

1 CC to Mr. C.S.Dhanasekaran, Advocate SR.No. 455

CRL.O.P. No.22669 of 2009

SKV (CO)
PSI (20.01.2015)



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