

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2015

CORAM

THE HON'BLE MR. JUSTICE R.S.RAMANATHAN

CrI.O.P.No.4407 of 2015

Nanjil Ilavarasan Vincent

...Petitioner/Accused

vs.

G.Chelladurai

...Respondent/Complainant

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to call for the records relating to the complaint in C.C.No.188 of 2014 on the file of the learned Judicial Magistrate No.!, Poonamallee, Chennai and quash the same.

For Petitioner : Mr.Arivazhagan

For Respondent : Mr.M.Maharaja

Additional Public Prosecutor

O R D E R

This Petition has been filed under Section 482 Criminal Procedure Code, seeking a direction to call for the records relating to the complaint in C.C.No.188 of 2014 on the file of the learned Judicial Magistrate No.!, Poonamallee, Chennai and quash the same.

2. Heard the learned counsel for petitioner.

3. It is submitted by the learned counsel for the petitioner that the complaint has been given by the respondent against the petitioner before the learned Judicial Magistrate No.I, Poonamallee for having committed an offence under Sections 406, 417, 420 and 506 (ii) of IPC and the sworn statement of the respondent and another witness by name Anand Raj were recorded and the case was taken on file in C.C.No.188 of 2014. He further submitted that the respondent had already given a complaint against the petitioner and another person before the learned Judicial Magistrate-I and that was forwarded under Section 156(3) Cr.P.C. and after investigation, the police filed the report stating that the first accused died and the allegation reveals civil transaction and on the basis of the report filed by the police official, the learned Judicial Magistrate-I, Poonamallee, closed the petition with liberty to file a private complaint and on that basis the present complaint was given by the respondent. He further submitted that having regard to the report of

the police officials that the allegation made in the earlier notice reveals only civil transaction, the learned Magistrate ought not to have taken the present complaint if it is based on the same allegation ought not to have rejected the same holding that no criminal offence is made out.

4. I am unable to accept the contention of the learned counsel for the petitioner. It is stated in the complaint given by the respondent that the petitioner herein sent a notice dated 03.10.2013 to the respondent herein as if the respondent borrowed a sum of Rs.2 Lakhs from the petitioner and issued the cheque dated 21.09.2013 and 24.09.2013 each for Rs.50,000/- and when the cheques were dishonoured and thereafter, the respondent herein sent a reply notice and the petitioner herein did not take any further action. Thereafter, having regard to the statement given by the respondent and also based on the statement of the witness Anandraj and considering the fact that the petitioner has not taken any action on the dishonour of cheques given by the respondent learned Magistrate has taken the complaint on file and I do not find any reason to quash the complaint. It is for the respondent to prove the case through witness before the Court and on the basis of the evidence, the trial court has to pass an order whether any offence has been made out. Therefore, at this stage, the complaint cannot be quashed.

Hence, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

smi

-s/d-

Assistant Registrar(CO)

Dt:13/3/2015

True Copy

Sub-Assistant Registrar

सत्यमेव जयते

To,

1. The Judicial Magistrate No.1, Poonamallee, Chennai.
- 2.The Public Prosecutor,High Court, Madras.

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Cr1.O.P.No.4407 of 2015