

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2015

CORAM:

THE HON'BLE MR.JUSTICE R.SUBBIAH

Cr1.O.P.No.1908 of 2014
and
M.P.Nos.1 and 2 of 2014

M.Ahmed Mustafa ... Petitioner/Accused

Vs

A.Habib Rahman ... Respondent/Complainant

Prayer: Petition filed under Section 482 of the Criminal Procedure Code praying to call for the records in C.C.No.5073 of 2013 on the file of Fast Track Court-II, Egmore, Chennai and quash the same.

For Petitioner : Mr.M.Soundar Vijay Arul Ram

ORDER

The present criminal original petition has been filed to call for the records in C.C.No.5073 of 2013 on the file of Fast Track Court-II, Egmore, Chennai and quash the same.

2. The petitioner is the accused in C.C.No.5073 of 2013 on the private complaint filed by the respondent under Section 138 of Negotiable Instruments Act. In the complaint filed by the respondent, it has been stated that the complainant and the accused are family members. The respondent / complainant sold all his wife's jewels got as Seethana from her parent's house and retained them as cash for the purpose of starting a new business venture. In the said situation, the petitioner approached the complainant and requested him to pay loan for the development of his business. The respondent / complainant advanced a loan to the tune of Rs.17 lakhs to the petitioner/ accused and he has also promised to repay the same within six months. After repeated demands made by the complainant, at last on 05.05.2013, the accused has issued a post dated cheque bearing No.535712, dated 10.06.2013, ICICI Bank,

Nungambakkam Branch, Chennai 600 034. The said cheque was presented on 10.06.2013 in IDBI Bank, Nandhanam Branch, Chennai - 35, by the complainant. But the same was returned vide its memo dated 11.06.2013, with an endorsement as "Account Closed". Thereafter, the respondent issued a statutory notice under Section 138 of Negotiable Instruments Act. Since the petitioner has not paid the amount within the statutory period, he has filed a complaint in C.C.No.5073 of 2013 before the XIV Metropolitan Magistrate Court, Egmore, Chennai. To quash the same, the present criminal original petition has been filed.

3. The only submission made by the petitioner is that he has not given any cheques to the defacto complainant by way of repaying any debt. The respondent who is a private money lender has filed the private complaint with false allegations.

4. In my considered opinion, the contentions raised by the learned counsel for the petitioner will not serve as a ground to quash the private complaint filed by the respondent. The same can be taken as defence only during the course of trial. Hence, I am not inclined to entertain this petition.

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

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

srn

To

The Fast Track Court-II,
Egmore, Chennai.

+1cc to Mr.M.Soundar Vijay Arul Ram, Advocate, S.R.No.67819

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RV(CO)
CA(12/01/2016)