

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.S.RAMANATHAN

CRL.O.P.No.5302 of 2015
and
M.P.No.1 of 2015

S. Subramanian .. Petitioner
Vs.
Y.B. Ignatius Richard .. Respondent

Prayer : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to call for the records and quash the criminal complaint in C.C.No.170 of 2014, pending on the file of the Hon'ble Fast Track Judge, Alandur.

For Petitioner : M/s. R. Thanjan

ORDER

The petitioner is the accused in C.C.No.170 of 2014 on the file of the learned Fast Track Judge, Alandur.

2. The respondent has filed the above private complaint under Section 138 of the Negotiable Instrument Act against the petitioner stating that the petitioner borrowed a sum of Rs.5,00,000/- on 15.06.2013 from the respondent and also executed a promissory note and thereafter, issued two cheques bearing Nos.767766 and 767767 each for a sum of Rs.2,50,000/- both dated 12.07.2014 drawn on South Indian Bank, Perungudi Branch, Chennai and when those cheques were present for collection, they were returned unpaid with endorsement "insufficient funds" and thereafter, legal notice dated 18.07.2014 was issued and the petitioner sent a reply dated 28.07.2014 making false allegations as the petitioner herein did not repay the amount, the case was filed.

3. It is submitted by the learned counsel for the petitioner that the petitioner does not know the respondent herein, who is a stranger to the petitioner and the petitioner never issued any cheque to the respondent. He further submitted that he has issued a reply notice dated 28.07.2014 to the statutory notice issued by the respondent wherein he has stated the fact that he borrowed the money only from N.S. Richard in the year 2013. At the time borrowal, he executed the same complaint, signed documents, pronotes and also the signed blank cheques as security and gave it to N.S. Richard and it was misused by N.S. Richard by instigating the petitioner. He also submitted that N.S. Richard filed a suit in O.S.No.1411 of 2014 on the file of IV Additional

Sessions Court, Chennai, and therefore, the case filed by the respondent in C.C.No.170 of 2014 is liable to be quashed.

4. I am unable to accept the contention of the learned counsel for the petitioner. It is seen from the complaint given by the respondent that the petitioner issued two cheques for the loan already received by him and when presented for collection, those two cheques were dishonoured and after issuing a statutory notice, a complaint was filed whether the cheques were given as security to N.S. Richard and whether the present respondent was instigated by N.S. Richard have to be gone into only during the trial.

5. Having regard to the allegations made in the complaint and also having regard to the fact that the signature is also admitted by the petitioner, the complaint cannot be quashed at this stage. Hence, the criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

gv

To
The Fast Track Judge, Alandur.

+1cc to Mr.R.Thanjan, Advocate SR.No.12746

rj[co]
gp/25.3.

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