

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:10.06.2015

CORAM

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

CRL.O.P.No.1271 of 2010

and

M.P.No.1 of 2010

K.B.Shankar

... Petitioner

. Vs .

A.Velu

... Respondent

Prayer:- Criminal Original Petition filed under section 482 of the Code of Criminal Procedure, praying to call for the records and quash the case in C.C.No.81 of 2009 on the file of the learned Judicial Magistrate No.I, Walajahpet, Vellore District.

For Petitioner : Prince Premkumar

For Respondent : No Appearance

ORDER

The accused in C.C.No.81 of 2009 on the file of the learned Judicial Magistrate No.I, Walajahpet, Vellore District, is the petitioner herein.

2. The respondent/complainant filed a complaint against the petitioner for the offence under Section 138 of the Negotiable Instruments Act and this petition is filed to quash the same.

3. It is submitted by the learned counsel for the petitioner that the petitioner issued a cheque bearing No.105485 dated 25.05.2009 for a sum of Rs.3,75,000/- drawn on ICICI Bank, Besant Nagar and the same was dishonoured, when presented, on the ground that the payment was stopped by drawer. Hence, a statutory notice was issued and even thereafter, there was no payment by the petitioner and therefore, a case was filed.

4. It is submitted by the learned counsel for the petitioner that though there is a statutory notice, the petitioner realised that the cheque belonging to him was stolen and that was misused by the respondent/complainant and therefore, a complaint was filed by

the petitioner against the respondent before the Inspector (Crime), J-6, Thiruvannamipur Police Station, Thiruvannamipur and a case has been registered in Crime No.1004 of 2009 against the respondent herein for the offences under Section 379, 420 and 511 IPC.

5. It is further submitted that the respondent/complainant has given a complaint against the petitioner for the offence under Section 138 of the Negotiable Instruments and based on the said complaint, a case was registered in C.C.No.81 of 2009. But, final report was not filed on the complaint given by the petitioner against the respondent stating that the cheque was stolen by the respondent wherein FIR has been registered against the respondent. Thus, the counsel for the petitioner submitted that the present complaint filed by the respondent is liable to be quashed.

6. I am unable to accept the contention of the learned counsel for the petitioner for the reason that the present complaint was filed by the respondent against the petitioner stating that the cheque issued by the petitioner was dishonoured on 30.06.2009 and returned to the respondent with an endorsement "payment stopped by drawer" and hence, a notice was issued to the petitioner on 16.07.2009, but no payment was made and thereafter only, the petitioner filed the complaint to the Inspector, (Crime), J-6 Thiruvannamipur Police Station stating that the cheque belonging to him was stolen.

7. Whether the cheque is the subject matter of theft or not, cannot be gone into in this petition. Though a case has been registered against the respondent on the complaint given by the petitioner, only based on the said reason, the complaint given by the respondent cannot be quashed. Hence, I do not find any merit in this petition.

8. In the result, the criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

cla
To

Sub Assistant Registrar

The Judicial Magistrate No.I,
Wallajahpet,
Vellore District.

CRL.O.P.No.1271 of 2010

SCD(CO)
CA(01/07/2015)