

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.S.RAMANATHAN

Cr1.O.P.No.28424 of 2009

and

M.P.No.1 of 2009

M.Sreedar @ Pannai Sreedar .. Petitioner

Versus

A.R.Venkatachalapathi ... Respondent

Petition filed under Section 482 Cr.P.C to call for the records in C.C.No.16193 of 2009 on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai-15 and quash the same.

For Petitioner : Mr.R.Syed Mustafa

O R D E R

It is represented by the learned counsel for the petitioner that the petitioner is an accused in C.C.No.16193 of 2009 on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai, and the respondent herein filed the above complaint under Section 138 of Negotiable Instruments Act against the petitioner.

2. The learned counsel for the petitioner submitted that as per the complaint given by the respondent herein, the petitioner herein agreed to pay Rs.35,50,000/- as commission and service charge for the efforts taken by the respondent/complainant in identifying suitable properties to enable the petitioner to purchase those properties. He further submitted that pursuant to the same, a cheque for the said sum of Rs.35,50,000/- dated 24.07.2009 drawn on ICICI Bank, Dindigul Branch, was issued by the petitioner in favour of the complainant and the petitioner also executed a letter in the form of an undertaking in his school letter pad and the same was presented for collection. According to the respondent the cheque was dishonoured and therefore, notice was issued and even after the receipt of the notice, the respondent did not pay the amount and therefore, the complaint.

3. The learned counsel for the petitioner further submitted that one Muthuvinayagam gave a complaint against four persons before the learned Judicial Magistrate No.3, Dindigul, and the respondent herein was arrayed as 4th respondent in the complaint given by the said Muthuvinayagam and the complaint was forwarded to the Inspector of Police, South Police, Dindigul police station and a case was registered in Crime No.627 of 2009, dated 23.09.2009 against four persons, for offences under sections 418, 406, 379, 465, 471, 474 and 506 (i) IPC, of which the respondent herein was the 4th accused and as a counter blast the respondent has filed the complaint as if the petitioner has committed the offence under Sections 138 and 142 of the Negotiable Instruments Act. In that complaint, the said Muthunayagam had stated that the cheque and letter pad were obtained by Manikandan and Rajkumar under threat and they in turn handed over the same to Balu @ Balakrishnan, third accused in that case and the third accused handed over the cheque to the fourth accused, who is the respondent/defacto complainant in this case. He therefore, submitted that having regard to the registration of crime in crime No.627 of 2009 on the file of Inspector of Police, South Police, Dindigul police station, the present complaint given by the respondent proved to be false one and therefore, there is no case made out against the petitioner.

4. I am unable to accept the contention of the learned counsel for the petitioner. It is for the petitioner to substantiate his defence through trial in the complaint given by the petitioner and merely because a case has been registered against the petitioner and others at the instance of one Muthuvinayagam, wherein some allegations were made against the petitioner, the complaint given by the respondent cannot be quashed. Hence, I do not find any merit in the petition.

5. The Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mra

To

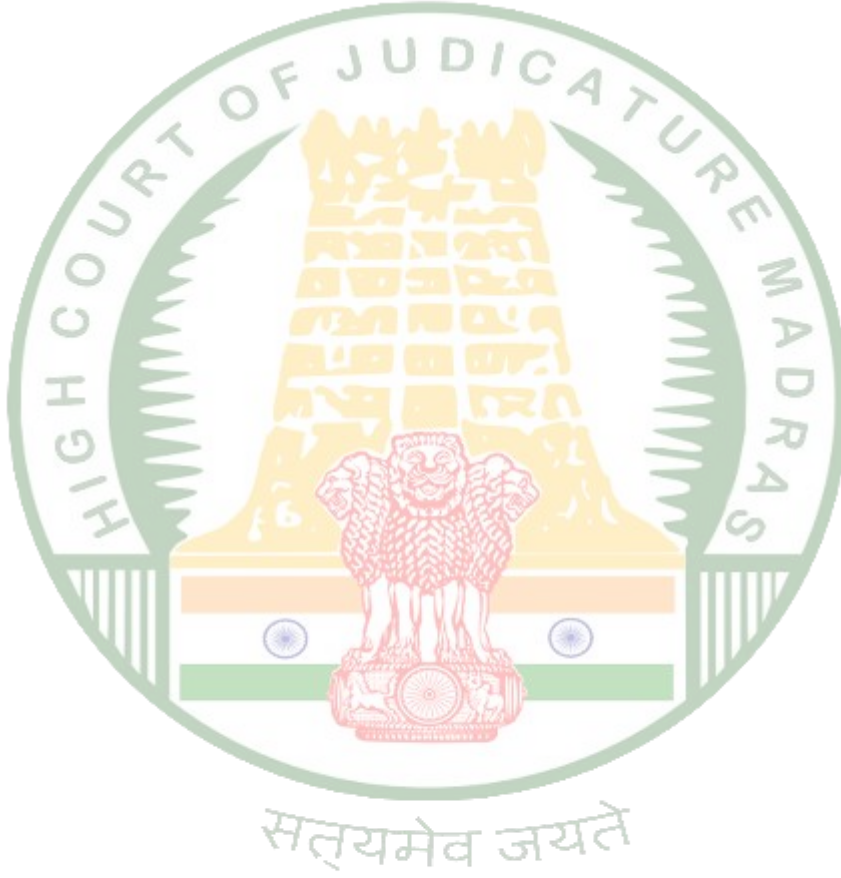
1. The XVII Metropolitan Magistrate,
Saidapet, Chennai-15.

2. The Public Prosecutor,
High Court, Madras.

1 cc to Mr.R.Syed Mustafa ,Advocate, SR.No.24441

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and
M.P.No.1 of 2009

KJI (CO)
PMK.20.5.2015



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