

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2015

CORAM

The Hon'ble Mr. Justice R.S.Ramanathan

Crl.O.P.No.29052 of 2010

and

M.P.No.1 of 2010

Mr.Kiran Ramsay
Proprietor
OM Film Company

...Petitioner

vs.

Mr.Akshay Sarin

...Respondent

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code to call for records relating to the case in C.C.No.9141 of 2010, on the file of XVIII Metropolitan Magistrate, Saidapet, Chennai - 600 015, and to quash the same.

For Petitioner : Mr.V.Vedavalli Kumar

For Respondent : Mr.T.N.Bhuvaneshwaran

O R D E R

The petitioner is the accused in C.C.No.9141 of 2010, on the file of XVIII Metropolitan Magistrate, Saidapet, Chennai - 600 015.

2. The respondent/complainant filed the above said case against the petitioner for offence under Section 138 of Negotiable Instruments Act, 1881, and this Petition is filed to quash the same.

3. The learned counsel appearing for the petitioner has submitted that the cheques were given by the petitioner to the respondent as security, and he misused the same and filed the present complaint against the petitioner, as if, the petitioner was liable to pay Rs.10,00,000/- under the cheque, dated 15.07.2010, bearing No.040055 and Rs.4,00,000/-, under the cheque, dated 15.07.2010, bearing No.065922. The learned counsel also submitted that, in the notice, dated 27.07.2010, issued by the respondent, there was no reference to these two cheques, and therefore, there was no proper demand.

4. The learned counsel appearing for the respondent submitted that the petitioner has not filed the notice sent by the respondent in respect of the dishonour of the aforesaid two cheques for a sum of Rs.1,00,000/- and Rs.4,00,000/- respectively. The learned counsel, therefore, submitted that proper notice was issued to the petitioner, and the Petition is liable to be dismissed.

5. I am unable to accept the contentions of the learned counsel for the petitioner. The issue, whether the cheques were given as security or not, cannot be gone into at this stage, and it is for the parties to adduce evidence and prove the same during trial. Similarly, the issue, whether the notice was issued in respect of two cheques mentioned in the complaint or not, also, can be gone into during trial, as the learned counsel for the respondent disputed the notice filed in the typed-set of papers. Further, in the grounds, no such plea was raised by the petitioner that proper notice was not issued in respect of dishonour of the two cheques mentioned in the complaint. According to me, all these issues can be gone into only during trial, and the same cannot be considered while entertaining the Petition under Section 482 Cr.P.C.

6. In the result, the Criminal Original Petition is dismissed. The Trial Court is directed to dispose of the case in C.C.No.9141 of 2010, within a period of four months from the date of receipt of a copy of this order. Consequently, connected M.P. is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

sd

To

1. The XVIII Metropolitan Magistrate,
Saidapet, Chennai - 600 015,

2. do thro the Chief Metropolitan Magistrate
Egmore, Chennai-8

1 cc to Mr.T.N.Bhuvaneswaran, Advocate, sr. 28689

Cr1.O.P.No.29052 of 2010

RJ (CO)
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