

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2016

Coram:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.10045 of 2016

N.Chandrasekaran

... Petitioner

Vs.

K.M.Ramesh

... Respondent

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to quash the entire proceedings initiated under STC No.71 of 2014 on the file of the learned Judicial Magistrate, Fast Track Court, Omalur.

For Petitioner: Mr.C.Girish Babu

ORDER

This petition has been filed to quash the entire proceedings initiated under STC No.71 of 2014 on the file of the learned Judicial Magistrate, Fast Track Court, Omalur.

2. For the sake of convenience, the parties will be referred to as the complainant and the accused.

3. It is the case of the complainant that on 15.08.2013, the accused had borrowed a sum of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand only) from the petitioner promising to return the amount with interest and also, executed a promissory note in favour of the complainant for the said liability and in discharge of said liability, the accused gave a cheque for a sum of Rs.3,00,000/- (Rupees Two Lakhs and Fifty Thousand as Principal + Fifty Thousand as interest only) on 14.06.2014, which when presented was dishonoured on the ground of stop payment. The complainant issued a statutory notice dated 11.07.2014 to the accused, for which, the accused neither replied to the statutory notice nor repaid the amount. Hence, the complainant lodged a private complaint in S.T.C.No.71 of 2014 before the learned Judicial Magistrate, F.T.C. Omalur, for offence under Section 138 of the Negotiable Instruments Act against the accused, challenging which, the accused is before this Court.

4. The learned counsel appearing for the accused submitted that the accused is a small time grill manufacturer and he had borrowed the amount and that, the complainant gave a false case along with the complaint. It is further stated in the complaint that the accused had borrowed the amount on promissory note.

In the considered opinion of this Court, disputed questions of fact cannot be gone into under Section 482 Cr.P.C as per the law laid down by the Hon'ble Supreme Court in S.Krishnamurthy Vs.Chellammal reported in (2015) 4 Scale 371. Hence, the criminal original petition is dismissed with liberty to the petitioner to work out his remedy in the manner known to law.

Sd/-
Assistant Registrar(VI)

//True Copy//

Sub Assistant Registrar

sms

To

1. The learned Judicial Magistrate,
Fast Track Court, Omalur.

2. -do- Thro'The Chief Judicial Magistrate, Salem.

+ 1 cc to Mr.C. Girish Babu, Advocate Sr.30731

Cr1.O.P.No. 10045 of 2016

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