

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.06.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl. O.P. No.10110 of 2016
and
Crl.M.P.Nos.5386 and 5387 of 2016

J.Velu .. Petitioner/Accused

Versus

K.Rajan .. Respondent/complainant

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to call for the records pertaining to C.C.No.437 of 2016 on the file of the XVI Metropolitan Magistrate, George Town, Chennai and quash the same.

For Petitioner : Mr.T.Arunkumar

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O R D E R

This petition has been filed to quash the proceedings in C.C.No.437 of 2016 on the file of the learned XVI Metropolitan Magistrate, George Town, Chennai.

2. Heard the learned counsel for the petitioner and perused the materials placed on record.

3.For the sake of convenience, the parties would be referred to as complainant and accused.

4.It is the case of the complainant that the accused is doing a saree business and that both are residing in Washermenpat and knowing each other well. It is alleged by the complainant that the accused borrowed money from time to time totally a sum of Rs.3,00,000/- from the complainant and promised to return the amount with monthly interest, for which, the accused has given a cheque for Rs.3,00,000/- dated 03.12.2015, which well presented was dishonoured on the ground of account closed. The complainant issued a statutory notice dated 14.12.2015 and thereafter, he has filed the present complaint. The accused neither complied with the notice nor sent a reply. It is further averred in the complaint that even a Panchayat and Mediation was held by one T.D.Venkatesan between the complainant

and the accused and even after the Panchayat the accused did not repay the amount. Challenging the same, the accused is before this Court.

5.The learned counsel for the accused would submit that the accused had borrowed the money on a day-to-day basis on Thandal and that there are entires in the pocket note book, which is normally maintained by the traders. He has also produced a photo copy of the same.

6.It is in my considered opinion, such documents cannot be considered into for a quash petition under Section 482 Cr.P.C., since there are disputed questions of fact as laid down by the Hon'ble Supreme Court in S.Krishnamoorthy vs. Chellammal reported in 2015 (4) Scale 371. Hence, this Criminal Original Petition is dismissed, with liberty to the petitioner to raise all points before the Trial Court. Consequently, connected Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar(CSII)

True Copy

Sub-Assistant Registrar

sri

To

1.The XVI Metropolitan Magistrate,
George Town, Chennai

+1 cc to Mr.T.Arunkumar Advocate sr.30651

CRL. O.P. No.10110 of 2016

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