

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP No.17076 of 2016

and

Crl.MP Nos.8182 & 8183 of 2016

V.Amirtharaj ... Petitioner

Vs

A.K.Thangavel ...Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records pertaining to the complaint filed in S.T.C.No.314 of 2016 on the file of the Judicial Magistrate, Sankagiri and quash the same.

For Petitioner : Mr.D.Arun

O R D E R

This petition has been filed to call for the records pertaining to the complaint filed in S.T.C.No.314 of 2016 on the file of the Judicial Magistrate, Sankagiri and quash the same.

2. For the sake of convenience, the parties will be referred to by their name.

3. It is seen that A.K.Thangavel has initiated prosecution in S.T.C.No.314 of 2016 against V.Amirtharaj for the offences under Sections 138 of the Negotiable Instrument Act and Section 420 of IPC, challenging with Amirtharaj is before this Court.

4. It is the case of A.K.Thangavel that Amirtharaj had borrowed Rs.2 lakhs on 10.12.2015 and in discharge of the said liability he issued a post dated cheque dated 10.03.2016, for Rs.2 Lakhs, which when presented was returned on the ground "Drawers signature differs from the specimen on record". Thereafter, A.K.Thangavel issued statutory notice dated

22.03.2016 and Amirtharaj has issued a reply notice dated 07.04.2016. Since Amirtharaj did not comply with the demand, A.K.Thangavel has launched the aforesaid prosecution.

5. Learned counsel for the petitioner placed strong reliance on the judgment of the Supreme Court in Vinod Tanna and another v. Zaheer Siddiqui and others [(2002) 7 SCC 541] and submitted that when the cheque has been dishonoured on the ground that the signature of the drawer differs, the prosecution under Section 138 of the Negotiable Instrument Act cannot be maintained. In this case, the complaint is also for the offence u/s 420 IPC.

6. In view of the above, this Court is of the view that it is not a fit case to quash the prosecution. Accordingly, this petition is dismissed. However, the learned counsel for the petitioner submitted that if the parties are referred to the Mediation Centre, there is every likelihood of they settling the issues. Recording the said submission, the Judicial Magistrate, Sankagiri is directed to refer the parties in S.T.C.No.314 of 2016 before the local Mediation and Conciliation Centre for bringing about an amicable settlement. The mediation process should be completed within one month from the date of reference to the Mediation Centre. In the guise of the mediation process, the trial should not be prolonged. Connected Miscellaneous Petitions are also closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

gms/mk

To

1. The Judicial Magistrate, No.1 Sankagiri

2. The Public Prosecutor
High Court of Madras
Chennai 600 104.

Cr1.OP No.17076 of 2016

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