

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 06.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Criminal Original Petition No.22602 of 2016
and
Crl.M.P.No.10532 of 2016

D.Gunasekar ...Petitioner/Accused

versus

R.Gowrisankar ...Respondent/Respondent

Prayer: This petition is filed under Section 482 Cr.P.C. praying to call for the records pertaining to the case in STC No.12 of 2015 on the file of the learned Judicial Magistrate, Fast Track Court No.II, Erode and to quash the said case.

For Petitioner : Mr.N.Manoharan

ORDER

For the sake of convenience, the parties in this proceedings will be referred to as the accused and complainant respectively.

2. The complainant has lodged a prosecution in S.T.C.No.12 of 2015 on the file the learned Judicial Magistrate, Fast Track Court No.II, Erode against the accused for offence under Section 138 of the Negotiable Instruments Act in respect of dishonour of a cheque dated 27.09.2013 drawn on City Union Bank Limited for Rs.3,00,000/-.

3. According to the learned counsel for the accused, the trial has almost been over and when the matter was posted for argument, the accused wanted to show his bona fide and, therefore, he submitted a demand draft dated on 09.09.2016 for Rs.3,00,000/- drawn on Karur Vysya Bank in favour of the complainant along with a memo before the trial court. But, on notice, the complainant had filed a reply memo stating that he is not ready to accept the demand draft on certain grounds.

4. Of course, no court shall compel the complainant to accept the payment offered by the accused in discharge of his liability and dispose of the case. In the instant case, the accused has shown his bonafide by depositing the demand draft which conduct of the accused, deserves to be borne in mind by the trial court while deciding the case on merits.

5. In view of the above, the case in S.T.C.No.12 of 2015 pending on the file of the learned Judicial Magistrate, Fast Track Court No.II, Erode, cannot be quashed on the ground that the petitioner was ready to discharge his liability by way of depositing demand draft for the amount in question. This court could, however, issue a direction to the trial court to take into consideration the fact that the accused had deposited demand draft into the court on 09.08.2016 so as to show his bona fide and that the demand draft would be valid only till 09.11.2016.

6. In the result, The criminal original petition is disposed of with the above observations. The trial court shall complete the trial of the case on or before 05.11.2016 and pass final judgement on merits keeping in mind the aforesaid conduct of the accused in depositing the amount as stated above. Consequently, connected MP is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

kmk

To

The Judicial Magistrate,
Fast Track Court No.II,
Erode, Erode District.

1CC to Mr.N.Manokaran, Advocate, SR 57569

Cr1.O.P.No.22602 of 2016

CTR (CO)
PSI 07.10.2016