



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.08.2016

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THE HONOURABLE Dr. JUSTICE S.VIMALA

Cr1.O.P. (MD) No.13442 of 2016

V.Susivinayagam ... Petitioner/Sole Accused

-vs-

J.Sahayarani ... Respondent/ Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure to call for the records and to quash the complaint in S.T.C.No.20 of 2012 pending on the file of the learned Judicial Magistrate No.I (Fast Track Court at Magisterial Level) Madurai against this petitioner.

For Petitioner : Mr.P.E.Pandiarajan, Advocate
for M/s.Dhana Law Associates

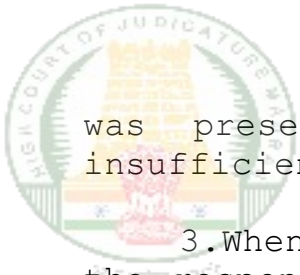
For Respondent : Mr.R.Rajamohan

O R D E R

Section 482 Cr.P.C., saves inherent power of the Court. Such inherent power can be exercised either to prevent the abuse of the process of the Court or otherwise to secure the ends of justice. Invoking such inherent power, this petition has been filed to quash the proceedings on the ground that the continuance would amount to abuse of the process of the Court.

2.Based on the private complaint preferred against the petitioner, the learned Judicial Magistrate No.IV, Madurai has taken cognizance of the offence under Section 138 r/w 142 of the Negotiable Instruments Act in S.T.C.No.463 of 2010 and subsequently the case has been transferred to the file of the Judicial Magistrate No.I (Fast Track Court at Magisterial Level) Madurai and renumbered as S.T.C.No.20 of 2012.

2.1.According to the allegation made in the complaint, the petitioner/accused has borrowed a sum of Rs.1,50,000/- from the defacto complainant, who is stated to be her relative and in order to repay the said amount, the petitioner/accused has issued a post-dated cheque in favour of the defacto complainant and when it



was presented before the bank, it was returned as 'funds insufficient'.

3. When the matter is taken up for hearing, the petitioner and the respondent, appeared in person and their identifications were also verified by this Court. The respondent/complainant has also stated that she is not interested in prosecuting the case against the petitioner/accused, as the dispute between them has already been settled.

4. Learned counsel appearing for the parties filed a joint memo of compromise dated 28.07.2016, duly stating that the parties have arrived at an amicable settlement, under which the respondent has agreed to withdraw the case in S.T.C.No.20 of 2012 pending on the file of the Judicial Magistrate No.I (Fast Track Court at Magisterial Level) Madurai.

6. From the compromise, this Court can safely infer that the chances of the defacto complainant deposing against the petitioner is less and therefore, the chances of conviction of the accused is bleak.

7. The Hon'ble Supreme Court in the case of **B.S.Joshi vs. State of Haryana**, reported in **(2003) 4 SCC 675** held that the High Court can quash the proceedings under Section 482 Cr.P.C., if it comes to the conclusion that ends of justice so requires, i.e. there would be almost no chance of conviction. Thus, B.S.Joshi's case provided a creative solution for quashing of proceedings under Section 482 Cr.P.C.

8. Therefore, considering, a) the nature of relationship between the parties, b) nature of offences alleged c) the settlement arrived at and d) the ultimate result of the prosecution, this Court is of the view that quashing of the **(S.T.C)** will be in the ends of justice and accordingly, the same is ordered to be quashed.

9. In the result, this Criminal Original Petition is allowed and the entire proceedings in S.T.C.No.20 of 2012 pending on the file of the learned Judicial Magistrate No.I (Fast Track Court at Magisterial Level) Madurai in respect of the petitioner/Accused alone are hereby quashed.

sd/-

Assistant Registrar (P&A)

/True Copy/

Sub Assistant Registrar



mj

To:

The Judicial Magistrate No.I
(Fast Track Court at Magisterial Level)
Madurai

+1CC to Mr.Dhana Law Associates, Advocates Sr.No.40976

GJM/SKS/RR/15.9.16-3p- 3c

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