



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.10.2016

CORAM

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THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

Crl.O.P.(MD) No.15333 of 2016

and

CMP(MD) Nos.7234, 7235 and 9493 of 2016

C.Manikandan : Petitioner/Accused

-Vs-

1.T.Ilamathi : 1st respondent/De-facto complainant

2.The Sub Inspector of Police,
Karaikudi North Police Station,
Sivagangai. : 2nd respondent/Complainant

Prayer: Petition filed under Section 482 of Code of Criminal Procedure, to call for the records in STC No.118 of 2016 pending on the file of the Fast Track Court, Karaikudi and quash the same.

For Petitioner	: Mr.C.Godwin
For 1 st Respondent	: Mr.K.Anbarasan
	Govt. Advocate (Crl.Side)
For 2 nd Respondent	: Mr.J.Anandkumar

O R D E R

This petition is filed to call for the records in STC No.115 of 2016 pending on the file of the Fast Track Court, Karaikudi and quash the same.

2.The first respondent filed a complaint against the petitioner alleging that the petitioner approached him to borrow a sum of Rs.5,00,000/- for his family expenses and on 26.07.2013, he executed a mortgage deed in his favour and in order to discharge the liability, he issued two cheques, dated 15.11.2015 and when they were presented, they got dishonoured for the reason of insufficient fund. On 14.12.2015, he issued a notice, which was also acknowledged by the petitioner and thereafter, he did not pay the cheque amount. Hence the complaint.

3.Mr.C.Godwin, learned counsel appearing for the petitioner would submit that the petitioner borrowed Rs.5,00,000/- from the complainant on 26.07.2013 and he was repaying the amount with interest @ 3% and till 5.11.2015, the petitioner paid Rs.2,60,000/- towards interest. While so, on 05.11.2015, the



first respondent came to the house of the petitioner with henchmen and obtained two cheques by force. So, immediately the petitioner's brother lodged a complaint with the 2nd respondent police and they issued a receipt in CSR NO.529 of 2015, however, subsequently, they did not take any action. The petitioner also issued a reply for the notice sent by the complainant, which was suppressed by him. Hence, the complaint is liable to be quashed.

4.Mr.J.Anandkumar, learned counsel appearing for the 1st respondent would submit that the cheques were issued only to discharge the legally enforceable debt; that the petitioner has not disputing the signature found in the cheques and therefore, as per Section 118 of the Negotiable Instruments Act, presumption is in favour of the complainant and the cheques were given for valid consideration and the presumption can be rebutted only during trial and the disputed question of facts cannot be decided in the quash petition. Hence, he prays for the dismissal of the petition.

5.Heard the rival submissions and perused the materials available record.

6.It is seen from the records that even in the quash petition, the petitioner has admitted the borrowal of Rs.5,00,000/- from the first respondent on 26.07.2013. It is the case of the complainant that the cheques were issued to discharge the liability. Further, the petitioner is not disputing his signature in the cheques.

7.In view of the above facts, this court is of the considered view that the contention of the petitioner that the cheques were obtained by force, can be decided only after trial. The petitioner has not made out any grounds to quash the complaint. Hence, this petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/
Assistant Registrar(Cs-II)

/True Copy/

Sub Assistant Registrar.

To,

1.The Sub Inspector of Police, Karaikudi North Police Station, Sivagangai.

2.The Fast Track Court, Karaikudi.

3.The Additional Public Prosecutor,

Madurai Bench of Madras High Court, Madurai.

+1CC to M/S.C.Godwin, Advocate, SR.No. 60154

+1CC to M/S.J.Anand Kumar, Advocate, SR.No. 60179

Cr1.O.P.(MD) No.15333 of 2016

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