



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2016

CORAM:

WEB COPY

THE HONOURABLE MR JUSTICE K.KALYANASUNDARAM

Cr1.O.P. (MD) .No.21456 of 2016

and

Cr1.M.P. (MD) No.10998 of 2016

M.Mariya Thanga Prabhakar

.. Petitioner/accused

Vs.

R.Ajin

.. Respondent/complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in S.T.C.No.100 of 2016, on the file of the learned Judicial Magistrate No.I, Kuzhithurai and quash the same as illegal.

For Petitioner : Mr.M.Punitha Deva Kumar

ORDER

This Criminal Original Petition is filed to quash the private complaint filed by the respondent under Section 138 of Negotiable Instruments Act, which was taken as S.T.C.No.100 of 2016, on the file of the learned Judicial Magistrate No.I, Kuzhithurai.

2. According to the respondent/complainant that the petitioner is his friend and he borrowed a sum of Rs.5,00,000/- from the complainant on 09.12.2015 and to discharge the liability, he issued a post dated cheque dated 23.03.2016, and on presentation, it was dis-honoured for the reason of insufficient funds.

3. Mr.M.Punitha Deva Kumar, learned counsel for the petitioner would submit that whenever necessity arises, the petitioner used to borrow money from one Kannan, who is said to be the witness of the present case and at the time of borrowal from the said Kannan, the petitioner issued two cheque leaves to him and one of the cheque leaf has been misused by the respondent, with the help of the said Kannan, for filing this complaint. It is further contended that there is no necessity for the petitioner to borrow money from the respondent/complainant and therefore the complaint has to be quashed.

<https://hcservices.courts.gov.in/hcservices/>
4. Read the learned counsel for the petitioner and perused the records.



5. Considering the facts and circumstances of the case, this Court is of the considered opinion that the petitioner has not made out any ground to quash the complaint and the defence of the accused can be established before the trial Court during the trial. The disputed question on facts cannot be decided in the quash petition.

6. In the result, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RTI)

/True copy/

Sub Assistant Registrar

To
The Judicial Magistrate No.I, Kuzhithurai.

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PJL
SH/SKS-RR:02.12.2016:2P/2C