



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 01.12.2016
CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
Crl.O.P(MD)No.22703 of 2016
and Crl.M.P(MD)Nos.11871 & 11872 of 2016

1.M/s.Nila Indane Gas Agency,
No.107/H2, Vincent Nagar,
Kalugumalai, Kovilpatti Taluk,
Thoothukudi District,
Through its Proprietor,
D.Thangaraj.

2.D.Thangaraj ... Petitioners/Accused

-Vs-

Karuppasmay Devar ... Respondent/Complainant

Prayer : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the proceedings in C.C.No.60 of 2014 on the file of the Fast Track Court (Magisterial Level), Kovilpatti and quash the same as against the petitioners herein.

For Petitioners : Mr.T.Selvan

ORDER

This Criminal Original Petition is filed to quash the private complaint filed by the respondent under Section 138 of the Negotiable Instruments Act.

2.Heard the learned counsel for the petitioners.

3.The case of the complainant is that the second accused is his friend and he is a sole proprietor of M/s.Nila Indane Gas Agency. The accused borrowed a sum of Rs.7,00,000/- from the defacto complainant on execution of a promissory note on 25.06.2013 for development of the business. The accused agreed to re-pay the entire amount within a period of six months. The second accused issued a cheque, dated 10.06.2014 to discharge the liability. But, it was dishonoured on presentation with an endorsement as 'funds insufficient'. Though the accused received the notice, dated 05.08.2014 for repayment of the cheque amount, they have neither paid the cheque amount nor sent any reply to the



4.Mr.T.Selvan, learned counsel for the petitioners would submit that the accused have not borrowed money from the complainant and this complaint is filed by misusing the cheque issued to one Karuppasamy Pandian.

5.Perusal of the materials available on record would show that there are prima facie materials against the accused. The defence taken by the accused could be established only during the trial and the disputed question of fact cannot be canvassed in the quash petition. In such view of the matter, I do not find any merit in the petition. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The Fast Track Court (Magisterial Level),
Kovilpatti.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.T.Selvam, Advocate Sr.No.78341

Cr1.O.P.(MD)No.22703 of 2016
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