

In the High Court of Judicature at Madras

Dated : 27.11.2017

Coram :

The Honourable Mr.Justice M.S.RAMESH

CrI.O.P.No.211 of 2017

and

CrI.M.P.Nos.155, 156 & 14861 of 2017

K.Magesh @ Mageswaran

...Petitioner

Vs

1.The Sub-Inspector of Police (L&O),
D-3, Ice House Police Station,
Chennai-600 005

2.S.Salmabegum

3.S.MoideenBadsha

...Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in C.C.No.7208 of 2016 pending on the file of the Learned XIII Metropolitan Magistrate, Egmore, Chennai and to quash all further proceedings.

For Petitioner : Mr.Prakash Adiapadam

For Respondent-1: Mr.C.Iyyapparaj
Additional Public Prosecutor

For Respondent : No Appearance
Nos.2 & 3

ORDER

The proceedings in C.C.No.7208 of 2016 on the file of the learned XIII Metropolitan Magistrate, Egmore, Chennai is under challenge in the present petition.

2.Heard Mr.Prakash Adiapadam, learned counsel for the petitioner and Mr.C.Iyyapparaj, learned Additional Public Prosecutor for the first respondent.

3.The two grounds raised by the learned counsel for the petitioner is that the impugned proceedings have been initiated with a mala-fide intention and that the statements recorded under Section 161 Cr.P.C., from the witnesses are all hearsay

witnesses. As such, the learned counsel for the petitioner submitted that the complaint has been made with a mala-fide intention and the offences have not been made out since there are no direct witnesses to the occurrence. By relying on the earlier proceedings filed by the petitioner herein under Section 138 of the Negotiable Instruments Act, 1881, the petitioner submitted that the present impugned proceedings is a counter blast to the NI Act proceedings initiated by him. The said proceedings relied upon by the learned counsel for the petitioner was initiated on 03.09.2012 before the learned XVIII Metropolitan Magistrate, Saidapet, Chennai in C.C.No.4300 of 2012 for dishonour of cheque bearing No.102888.

4.The present charge sheet has been made two years later based on the complaint that the petitioner has been charging exorbitant interest and the same has been taken on file in C.C.No.7208 of 2016 before the learned XIII Metropolitan Magistrate, Egmore, Chennai for an offence under Section 4 of Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 r/w Section 34 of IPC.

5.On a perusal of the charge sheet, it is seen that the complaint pertains to several cheques and the same has not been initiated against the petitioner herein with regard to the cheque bearing No.102888 which is not part of the transactions alleged in the said complaint. The learned counsel for the petitioner also submits that the statements recorded under 161 Cr.P.C., are all hearsay witnesses and therefore, their statements need not be given importance. Just because the witnesses are hearsay witnesses, it cannot be said that the charge sheet filed based on the complaint needs to be quashed. It is always open to the petitioner to establish the credentials of these witnesses at the time of trial. This Court exercising its power under Section 482 of Cr.P.C., need not to go into these mixed question of facts. In view of the same, I do not find any merits in the present petition.

6.In the result, the Criminal Original Petition stands dismissed. It is made clear that I am not expressed any of my views with to regard to the merits of the case of the petitioner. Consequently, connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar

/true copy/

Sub Asst. Registrar

cgi/DP

To.

1. The Sub-Inspector of Police (L&O),
D-3, Ice House Police Station,
Chennai-600 005.

2. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.Prakash Adiapadam, Advocate in sr.no.14/12/2017

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NR 14/12/2017



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