

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 07.09.2017
CORAM
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
Crl.OP No.16765 of 2011
& M.P.No.2 of 2011

S.Karthiyayenee

..Petitioner

Vs

P.C.Murugasan

..Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in S.T.C.No.153 of 2011 on the file of District Munsif cum Judicial Magistrate, Kodumudi, Erode and quash the same.

For Petitioner : Mr.Ramesh Kumar Chopra
For Respondent : M/s.V.S.Kesavan

O R D E R

This petition is filed for quashing the private complaint made by the respondent under Section 138 of the Negotiable Instruments Act.

2.Heard the learned counsel for the petitioner and the learned counsel for the respondent.

3.The case of the respondent is that on 20.02.2011, the accused borrowed a sum of Rs.4,00,000/- for his urgent needs and to discharge the debt, he issued a cheque, dated 22.03.2011, which, when presented for collection, got dishonoured for "insufficient funds".

4.The respondent would further state that he issued a lawyer's notice on 19.4.2011, demanding the cheque amount, which returned "unclaimed". Hence, the complaint.

5.This application is filed on the ground that the respondent has not produced any document to show that the petitioner had borrowed a sum of Rs.4,00,000/- from the respondent. The statutory notice was not served on the petitioner and the cheque is not submitted for consideration.

6.It is seen that the petitioner has not disputed the signature in the cheque. Therefore, there is a presumption in favour of the respondent that the cheque was drawn for valuable consideration under Section 139 of the Negotiable Instruments Act. Further, in the complaint itself, it is stated that the statutory notice has been returned, as it was not claimed by the accused.

7.A perusal of the records would show that there are prima facie materials against the petitioner. Hence, the Quash petition is dismissed with liberty to the accused to raise all the defences before the trial court. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

pvs

To
The District Munsif cum Judicial Magistrate,
Kodumudi, Erode.

Crl.OP No.16765 of 2011

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