

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2017

CORAM :

THE HONOURABLE MR. JUSTICE M.SUNDAR

CrI.O.P.No.29310 of 2011

and M.P.Nos.1 and 2 of 2011

A.K.Saravanan,
S/o. Late Kannappan

.. Petitioner/Petitioner

Vs.

K.S.Settu,
S/o.K.G.Sekar.

.. Respondent/Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pending on the file of the Learned Judicial Magistrate, Katpadi in C.C.No.2/2011 and quash the same.

For Petitioner : Mr.E.Kannadasan

For Respondent : Ms.M.R.Sagunthala,
for Mr.T.P.Prabakaran

O R D E R

This petition has been laid under Section 482 of Criminal Procedure Code (Cr.P.C. for brevity)

2. The prayer in the quash petition, is to call for the records and quash the criminal complaint viz., C.C.No.2 of 2011 pending on the file of the learned Judicial Magistrate, Katpadi, Vellore District.

3. The facts would reveal that the criminal complaint has been laid primarily under Section 138 of the Negotiable Instruments Act ("NI Act" for brevity).

4. There are three main grounds that have been raised in this quash petition. One is that the statutory notice was issued to two noticees viz., the Principal Debtor and the petitioner himself, but subsequently, when the complaint was laid, it has been filed only against the petitioner herein to the exclusion of the principal debtor. The second ground is that the said negotiable instrument (Cheque) was given only for security purposes and not towards discharge of liability. The third ground is raised is that the statutory notice was defective, as it calls upon the noticee to pay the cheque amount within fortnight, while statutory notice prescribes 30 days.

5. The learned counsel for the respondent reiterates that the complaint as lodged/filed is in order and the grounds that have been raised herein are matters for trial and that the same can not be looked into a quash petition.

6. I have given my anxious consideration to the rival submissions made in the Court.

7. From un-contraverted averments in the complaint, it can not be said that no case has been made out. The grounds that are being raised by the quash petitioner are matters, which are in the rides of trial. Therefore I am not inclined to accede to the prayer in this quash petition.

8. Though obvious, it is made clear that all grounds are left open to be raised in the trial before the Magistrate's Court and any opinion expressed in this order will not have any influence on the trial before the learned Magistrate.

9. With the above observation, this Criminal Original petition is dismissed. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

vsm

To

The Judicial Magistrate,
Kadpadi, Vellore District.

+1 CC to Mr.E.Kannadasan, Advocate Sr.No.15629

+1 CC to Mr.T.P.Prabakaran, Advocate Sr.No.15822

Cr1.O.P.No.29310 of 2011

VGI (CO)
KP (23/03/2017)



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