IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.06.2018

DELIVERED ON: 04.07.2018

CORAM :

THE HONOURABLE Mrs. JUSTICE R. HEMALATHA

Crl.O.P.No.21282 of 2012
and
Crl.M.P.Nos.1, 2 3 of 2012

C.Panchanathan ... Petitioner

Vs.

N.Kandhavel Guptha ... Respondent

Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C to call for the records pertaining to the proceedings in C.C.No.380 of 2011 on the file of the Judicial Magistrate No.3, Erode and quash the same.

For Petitioner : Mr.C.R.Malarvannan

For Respondent : Mr.S.Jayakumar

ORDER

The petitioner is the 6th accused in C.C.No.380 of 2011 on the file of the Judicial Magistrate No.3, Erode. The respondent/complainant filed a private complaint under Section 200 of the Code of Criminal Procedure before the Judicial Magistrate No.3, Erode, against 11 accused for the alleged offences punishable under Sections 120(b), 463, 465, 466, 467, 468, 469, 470, 471, 474, 475, 476, 477, 405, 406, 415, 420 and Sections 3, 4 and 6 of the Tamil Nadu Prohibition of Charging of Exorbitant Interest Act, 2003. The petitioner has filed a present petition to quash the proceedings in C.C.No.380 of 2011 in so far it relates to him.

2. The respondent/complainant in his complaint in C.C.No.380 of 2011 on the file of the Judicial Magistrate No.3, Erode has alleged that he borrowed a sum of Rs.1,00,000/- from one V.P.Rathinasamy(A1), who is a money lender during the year 2004, for which, he handed over 9 signed blank cheques and

signed blank papers and also pronotes. The details of the signed blank cheques are as follows.

Sl. No	Cheque No	Drawn on
1	039661 to 039664 (4 cheques)	Erode Central Co-operative Bank, Kodumudi branch pertaining to the savings bank account No.6779 of the petitioner
2	998015 to 998019 (5 cheques)	Erode Central Co-operative Bank, Kodumudi branch, pertaining to the savings bank account No.5471 of Vijayalakshmi, wife of the petitioner

Subsequently, the respondent/complainant was taken to the Sub Registrar Office, where, some documents were obtained from him. According to the complainant, his property worth Rs.25,00,000/- was sold to the 7th accused for a meagre sum of Rs.2,70,000/-. It is his contention that several private complaints under Section 138 of the Negotiable Instruments Act were also filed against him. The specific allegations as against the present petitioner is that he was present at the time of borrowal and conspired with A2 in filing S.T.C.No.362 of 2009 against the complainant.

3. Mr.C.R.Malarvannan, learned counsel appearing for the petitioner would contend that there are no materials available on record so as to allow the prosecution to go further. A perusal of the complaint also shows that, except the allegations that the petitioner was present at the time of the transaction between the said V.P.Rathinasamy (A1) and respondent/complainant and he conspired with all the other accused to file S.T.C.No.362 of 2009, no other allegations are found. The complainant has also referred to two Calender cases namely C.C.No.193 of 2011 and C.C.No. 730 of 2010, which were filed against one Umadevi and Sivakumar respectively under Section 138 of the Negotiable Instruments Act by the 10th and 11th accused, which have nothing to do with the complaint in C.C.No.380 of 2011 on the file of the Judicial Magistrate No.3, Erode.

4. Per contra, Mr.S.Jayakumar, learned counsel appearing for the respondent would contend that the first accused is the money lender and has committed serious offences of forgery etc. and the petitioner by his presence during the

transaction between the complainant and the first accused, has made himself to be a party to the conspiracy. He also showed a note book, in which, the present petitioner allegedly signed for receiving money from the respondent/ complainant.

5. Though the money transaction took place during the year 2004, the present complaint in C.C.No.380 of 2011 on the file of the Judicial Magistrate No.3, Erode, was filed only in the year 2011. There is no allegation against the present petitioner that he used the alleged blank cheques given by the respondent/complainant. Further more, a bald allegation that the present petitioner conspired with all the accused for committing forgery etc. would not make out a prima facie case against the petitioner. The contention of the learned counsel appearing for the respondent/complainant that the petitioner had signed a note book for the payments made by the respondent/ complainant would itself show that he is a party to the conspiracy, cannot be accepted, because, the signature is disputed by the petitioner and even assuming that the signature found in the note book is that of the petitioner, that itself would not make out a primaface conspiracy or any other offence. Therefore, I hold that the proceedings in C.C.No.380 of 2011 on the file of the Judicial Magistrate No.3, Erode is liable to be quashed, as far as the present petitioner is concerned.

6. In the result, the proceedings as against the petitioner in C.C.No.380 of 2011 on the file of the Judicial Magistrate No.3, Erode is quashed. At this juncture, the learned counsel appearing for the respondent/ complainant would contend that time may be fixed for the conclusion of the trial by the trial court. Considering his request, the learned Judicial Magistrate No.3, Erode is directed to proceed further with the case in respect of the other accused, uninfluenced by any of the observations made by this court in the present petition, within a period of 6 months from the date of receipt of a copy of this order.

7. With the above observations, this Criminal Original Petition is allowed. Consequently, connected criminal miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True copy//

Sub Assistant Registrar

mst

To

1. The Judicial Magistrate No.3,
   Erode.

+1cc to Mr.S.Jayakumar, Advocate SR.No.43129

Cr.O.P.No.21282 of 2012

SSI(CO)
GN(16/07/2018)