

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

**Crl.O.P No.14215 of 2010
and
M.P.No.1 of 2010**

A.Ramakrishnan

... Petitioner

vs.

Barclays Bank PLC
No.24, 2nd Avenue, 15th Street,
Ashok Nagar, Chennai – 600 083.
Rep. by its Associate Legal Manager,
Mr.Manish Xavier

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.4196 of 2010 pending on the file of the learned XVII Metropolitan Magistrate Court, Saidapet, Chennai and quash the same.

For Petitioner : Mr.Guberan
for M/s.Rank Associates

For Respondent : No Appearance

ORDER

The petitioner who has been arrayed as accused in C.C.No.4196 of 2010 on the file of the XVIIth Metropolitan Magistrate, Saidapet, Chennai, has come up with the present petition to quash the proceedings of the aforesaid Calendar Case.

2.The short facts of the instant original petition is that the respondent herein filed a complaint by invoking the provisions of Negotiable Instrument Act for the dishonour of the cheque bearing No.823903 dated 21.01.2010 for a sum of Rs.86,766/-. The further case of the petitioner is that the complaint in C.C.No.4196 of 2010 was filed in the year 2010. Whereas, the petitioner had filed an Original Suit before the City Civil Court at Chennai in O.S.No.6020 of 2008. The prayer sought for in the original suit was permanent for injunction restraining the bank in any manner with receiving EMI payments for the loan Account No.000001835638 of the petitioner through ECS from Indian Overseas Bank, West Mambalam Branch, Chennai for a sum of Rs.14,461/- every month. Further the relief sought for in the original suit is for a permanent injunction restraining the Respondent/Bank herein from presenting for clearance the cheque numbers 823901 to 823907 drawn at the aforesaid Indian Overseas Bank as they have been issued as a security for repayment of loan Account No.000001834638 of the petitioner.

3.The learned counsel appearing for the petitioner would submit that the complaint sought to be quashed in C.C.No.4196 of 2010 is nothing but an abuse of process of law and also an act of contempt of the decree and judgment passed in O.S.No.6020 of 2008 on the file of the City Civil Court at Chennai.

4.The case of the respondent is that the cheque in dispute is the cheque is the subject matter of the aforesaid original suit. At the same time he has contended that several thousands of rupees as dues is payable to the respondent bank by the petitioner.

5.I heard Mr.Guberan, learned counsel appearing for the petitioner. No representation on behalf of the respondent and all the materials available on records are perused.

6.It is the admitted fact that the subject matter of the complaint in C.C.No.4196 of 2010 is a cheque bearing number 823903 dated 21.01.2010 for a sum of Rs.86,766/-. Further the very same cheque is also the subject matter of the original suit in O.S.No.6020 of 2008 on the file of the aforesaid Court. There is no dispute that the competent Civil

Court has passed a decree and judgment to that effect not only the cheque in dispute but some other cheques of the petitioner are also ordered not to be presented for collection. No material has been produced as against the decree and judgment passed in O.S.No.6020 of 2008 for the filing of any appeal suit in this regard. Hence, the pendency of the proceedings in C.C.No.4196 of 2010 on the file of the XVIIth Metro Politian Magistrate, Saidapet, Chennai is contrary to the decree and judgment of the competent Civil Court and the same is impermissible in law. Further, even the institution of the complaint by invoking the provisions of the Negotiable Instruments act is an abuse of process of law.

7. So, in the circumstances discussed above the proceedings of the Calendar Case in C.C.No.4196 of 2010 is deserved quashment and accordingly quashed and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Note: Issue order copy on 18.08.2017

Index : Yes

Internet : Yes

vs

To

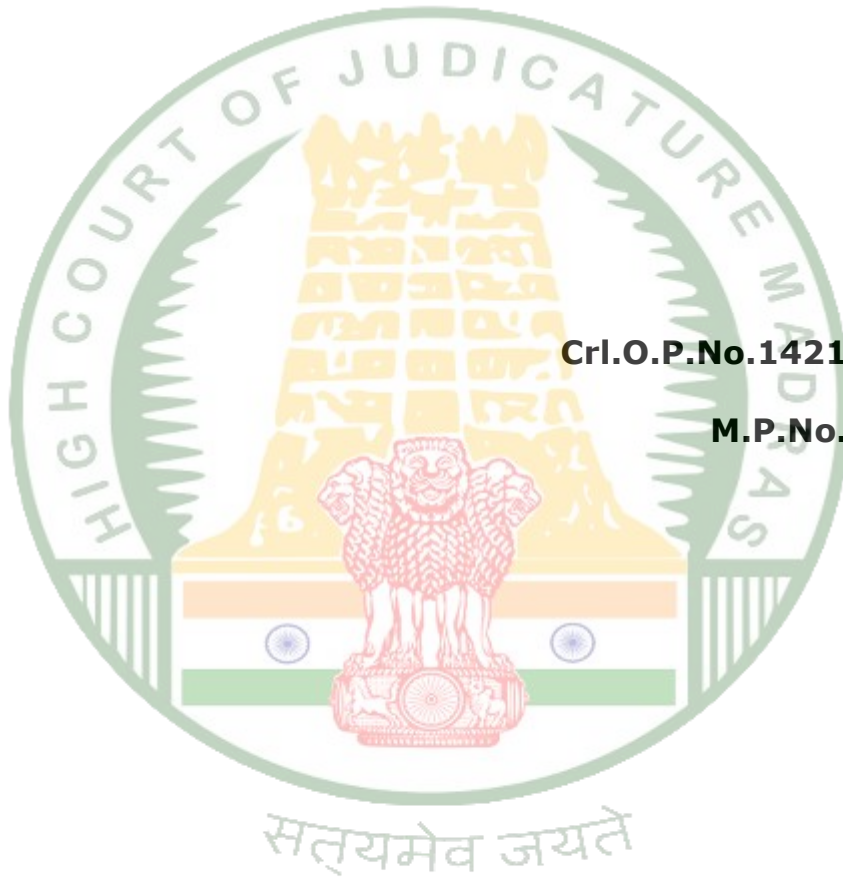
The XVII Metropolitan Magistrate Court,
Saidapet, Chennai.

15.03.2017

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M.V.MURALIDARAN,J.

VS



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