

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2017

CORAM

THE HONOURABLE Mr.JUSTICE N.AUTHINATHAN

CRL.OP.No.19761 of 2010
and
MP.No.1 of 2010

Go.Thamil Selvan Petitioner/Accused

Vs

P.S.Arumugam Respondent/Complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., praying to call for the records in C.C.No.1364 of 2008 on the file of Learned District Munsif cum Judicial Magistrate Court, Vedaranyam and quash the same.

For Petitioner : Mr.G.Dhamodaran for
Mr.Samuel Raja Pandian

For Respondent : Mr.S.Parthasarathy

O R D E R

This Criminal Original Petition has been filed by the petitioner to quash the proceedings in C.C.No.1364 of 2008 on the file of the learned District Munsif cum Judicial Magistrate Court, Vedaranyam.

2.The petitioner is the accused in C.C.No.1364 of 2008 pending on the file of the learned District Munsif cum Judicial Magistrate Court, Vedaranyam. A complaint has been filed by the respondent, against the petitioner for the offence punishable under Section 138 of the Negotiable Instruments Act. The learned Magistrate has taken cognizance of the complaint and issued summons to the petitioner.

3. The respondent/complainant alleged in the complaint that he sold casuarina to the petitioner. The petitioner has not paid the price of the goods supplied by the respondent. For the discharge of the said liability the petitioner has issued a

cheque for Rs.3,80,000/- bearing No.0681608 drawn on Indian Overseas Bank, Ayakaranpulam Branch, Nagapatinam District, dated 30.06.2008 in favour of the respondent. The cheque when presented on 04.07.2008 by the respondent, was dishonoured, on the ground that the petitioner's account was closed. Therefore, the respondent has issued a legal notice on 14.07.2008, which returned with the endorsement of "Door Locked". Thereafter, the respondent has preferred this complaint.

4. The learned counsel appearing for the petitioner submits that entire case of the respondent is fictitious and false. The petitioner has already paid the amount payable for the supply of casuarina. The learned counsel would further submit that in view of the settlement of views no amount is payable to the respondent. The respondent has also issued necessary receipt acknowledging the payment and settlement of all the dues. He has further assured that he would no further action, in view of the settlement. In the light of the settlement the present proceeding pending before the trial Court are liable to be quashed.

5. The learned counsel for the respondent disputed the above factual defences taken by the petitioner in the petition.

6. It is brought to the notice of this Court that already trial has commenced in this case and three witnesses have been examined. Only the trial Court can decide the above disputed questions of fact. This Court cannot act as a trial Court while exercising jurisdiction under Section 482 Cr.P.C. Whatever ground that has been raised in this Petition, could be agitated before the trial Court. As the trial has commenced, this Court is not inclined to grant the prayer of the petitioner. The trial Court is directed to dispose of the case in accordance with law, expeditiously.

7. In the result, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

sd/

Assistant Registrar

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/true copy/

Sub Assistant Registrar

jv
To

1. The District Munsif cum Judicial Magistrate Court,
Vedaranyam.

2.The Chief Judicial Magistrate, Thiruvarur.

+lcc to Mr.G.Dhamodaran, Advocate SR.No.7283

+lcc to Mr.S.Parthasarathy, Advocate SR.No.7154

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RV (CO)
GN (22/02/2017)



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