IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2017

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.O.P.No.1907 of 2012
and
M.P.No.1 of 2012

Mani
S/o.Palanisamy ..Petitioner

Vs.

1.The State represented by
Inspector of Police,
B-9, Saravanampatti Police Station,
Coimbatore.

2.V.Savitha Devi
(impleaded the second respondent
as per order of this court) .. Respondents

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to call for the records pertaining to C.C.No.450 of 2011 on the file of learned Judicial Magistrate II, Coimbatore, and quash the same.

For Petitioner : Mr.M.Guruprasad

For Respondents : Mr.M.Mohammed Riyaz,
Government Advocate [Crl.side][R1]
No appearance [R2]

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O R D E R

Petitioner seeks quash of proceedings in C.C.No.450 of 2011 on the file of learned Judicial Magistrate II, Coimbatore.

2. Heard learned counsel for petitioner and learned Government Advocate [Crl.side] for first respondent.

3. Petitioner is the tenth accused in case pending trial in C.C.No.450 of 2011 on the file of learned Judicial Magistrate II, Coimbatore. The accused in such case were charged for offences u/s.120-B, 147, 342, 384 and 506(ii) IPC. The facts pertinent to the case have received due consideration on petition for quash moved by accused 1, 11 and 12 in Crl.O.P.No.29448 of 2011 and the same was allowed under orders dated 03.01.2013. This Court need do no more than extract paragraphs 4 to 7 of such order:

> *"4. The contention of the learned counsel appearing for the petitioners/Accused No. 1, 11 and 12 is that a false complaint has been given against them by the defacto complainant as if the accused have confined the defacto complainant, her husband and her father and extorted them by inducing them to sign the blank cheques of Union Bank of India, Andhra Bank, HDFC Bank and Citi Bank without filling up the particulars of the amount thereon and forcibly snatched the said*

signed blank cheques from them and on the basis of the said complaint, a case has been registered against them by the respondent police. In fact the husband of the defacto complainant had borrowed a sum of Rs.6,00,000/- on 03.10.2005, Rs.9,00,000/- on 09.12.2005, Rs.5,00,000/- on 04.07.2006, Rs.4,50,000/- on 12.07.2007 as hand loan from the first petitioner herein in the capacity as Proprietor of samyukta Corporation for his urgent business expenses viz., to take demand draft in favour of Indian Oil Corporation and to discharge his liability towards the said loan, he had issued four post dated cheques in favour of the first petitioner herein and when the said cheques were deposited for collection, they were returned unpaid. The present accused has already filed four private complaints against the husband of the defacto complainant, under Section 138 of the Negotiable Instruments Act for dishonour of the cheques issued by him in favour of the present accused for discharge of his liability, one of which is before the Judicial Magistrate No.II, Coimbatore for dishonour of the cheque dated 6.6.2006 for a sum of Rs.9,00,000/- and the same was taken cognizance as C.C.No.206 of 2007, the second one is for dishonour of the cheque dated 3.10.2005 for a sum of Rs.6,00,000/- and the same was taken cognizance by the learned Judicial Magistrate No.VI, Coimbatore by way of C.C.No.74 of 2006, the third one is for dishonour of the cheque dated 14.07.2007 for a sum of Rs.4,50,000/- and it was taken cognizance by the learned Judicial Magistrate No.VI in C.C.No.876 of 2007 and the fourth one is for dishonour of the *pay order dated 5.7.2006 for Rs.5,00,000/-, and the same was taken cognizance by the learned Judicial Magistrate No.VII, Coimbatore in C.C.No.117 of 2008. Under such circumstances the defacto complainant to counter blast the said cases against her husband under Section 138 of the Negotiable Instruments Act, has given the present false complaint against the first petitioner and others. Hence, he prays that the proceedings against the petitioners has to be quashed.*

5. The learned counsel appearing for the second respondent/defacto complainant contended that the accused have extorted the defacto complainant, her husband and her father by inducing them to sign the blank cheques of Union Bank of India, Andhra Bank, HDFC Bank and Citi Bank without filling up the particulars of the money thereon and forcibly snatched the said signed blank cheques from them. Thereupon the accused committed criminal intimidation by threatening to kill them and their family if they would complain the incident to anybody. Hence he prays that the petition has to be dismissed.

6. From the perusal of the records it is seen that the present accused has already filed four private complaints against the husband of the defacto complainant, under Section 138 of the Negotiable Instruments Act for dishonour of the cheques issued by him in favour of the present accused for discharge of his liability, one of which is before the Judicial Magistrate No.II, Coimbatore for dishonour of the cheque dated 6.6.2006 for a sum of Rs.9,00,000/- and the same was taken cognizance as C.C.No.206 of 2007, the second one is for dishonour of the *cheque dated 3.10.2005 for a sum of Rs.6,00,000/- and the same was taken cognizance by the learned Judicial Magistrate No.VI, Coimbatore by way of C.C.No.74 of 2006, the third one is for dishonour of the cheque dated 14.07.2007 for a sum of Rs.4,50,000/- and it was taken cognizance by the learned Judicial Magistrate No.VI in C.C.No.876 of 2007 and the fourth one is for dishonour of the pay order dated 5.7.2006 for Rs.5,00,000/-, and the same was taken cognizance by the learned Judicial Magistrate No.VII, Coimbatore in C.C.No.117 of 2008. Thereafter only, the present complaint has been given by the defacto complainant.*

7. Even though complaint has been given by the defacto complainant, at one point of time the Investigating Officer has closed it as 'Mistake of Fact'. Thereafter, he has reopened the case, enquired and filed final report against the present accused. It is pertinent to note that even though the Investigating Officer has filed charge sheet against the present petitioners for the offence under Section 384 of IPC, without enclosing the original cheque he has presented the charge sheet and the same has been taken cognizance by the learned Judicial Magistrate. The original cheque has been produced by the present accused before the Magistrate Court and the same has been taken cognizance in the year 2005 and 2006. After the receipt of summons the defacto complainant has presented the present complaint before the respondent police as if the original cheque has been taken away by the present quash petitioner. Therefore, I am of the view that already the present accused has *filed four private complaints against the husband of the defacto complainant and the same are pending, if at all the defacto complainant has got any grievance she is at liberty to agitate the same in the said cases."*

Recording our respectful agreement, this Criminal Original Petition is allowed. The proceedings in C.C.No.450 of 2011 on the file of learned Judicial Magistrate II, Coimbatore, as against this petitioner is quashed. Connected miscellaneous petition is closed.

08.03.2017

Index:yes/no
Internet:yes/no
gm

To
The Judicial Magistrate II,
Coimbatore.

C.T.SELVAM, J

gm

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