



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.10.2017

CORAM :

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**THE HONOURABLE MR.JUSTICE S.S.SUNDAR**

CRL.O.P.(MD)No.1458 of 2015

and

M.P.(MD) Nos.1 and 2 of 2015 and Crl.M.P.(MD)No.8372 of 2017

Rajasekar @ Christantine Rajasekar : Petitioner / Accused

-Vs-

K.S.T.J.Ponsingh

: Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, praying to call for the records in C.C.No.420 of 2014 on the file of the Judicial Magistrate, Tiruchendur and quash the same.

For Petitioner : Mr.T.A.Ebenezer

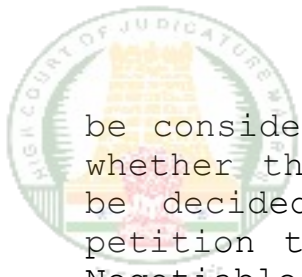
For Respondent : Mr.R.Srinivasan

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O R D E R

This petition is to quash the private complaint in C.C.No.420 of 2014 on the file of the Judicial Magistrate, Tiruchendur.

2.The petitioner is the accused and the complaint was under Section 138 of NI Act. The main submission of the learned counsel for the petitioner is that the cheques were obtained from the petitioner by coercion and compulsion in the police station and that therefore, the cheques are not supported by any consideration. The learned counsel for the petitioner refers to the representation given by the petitioner dated 10.02.2014 and submitted that the nature of transaction would clearly indicate that it was only by force the petitioner handed over the cheques. The learned counsel for the petitioner further submitted that the cheques issued by the petitioner have been misused by the respondent. It is also stated that the de-facto complainant, namely, the respondent gave a complaint and that it was only in connection with that, the petitioner was forced to execute and hand over the cheques. It is further stated that the cheques have been misused by the respondent. Except saying that the cheques were obtained by coercion and that the cheques are not supported by any consideration, this Court is able to see no other ground which can



be considered at this stage to quash the complaint. The question whether the cheques are supported by consideration or not cannot be decided on the basis of affidavits before this Court in a petition to quash the proceedings initiated under Section 138 of Negotiable Instruments Act.

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3. The learned counsel appearing for the respondent submitted that out of three cheques, the petitioner honoured one of the cheques and that money was also credited. The nature of arrangement also, according to the learned counsel for the respondent, is mutual and that the allegation that the cheques were collected or taken by force has no merit. This Court sitting under Section 482 of Cr.P.C. has only limited jurisdiction. Absolutely, there is no legal ground made before this Court to quash the criminal complainant. The truth or otherwise in the complaint is a matter for evidence. Either the petitioner or the respondent may establish their respective case before the trial Court and the trial Court will consider and on the basis of evidence may decide the case in either way. Having regard to the settled position of law, this Court does not find any lacunae or irregularity in the proceedings that is now pending in C.C.No.420 of 2014 on the file of the learned Judicial Magistrate, Thiruchendur. Hence, this petition is dismissed. The learned Judicial Magistrate, Thiruchendur, is directed to complete the trial and dispose of C.C.No.420 of 2014 as expeditiously as possible preferably within a period of four months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub-Assistant Registrar

To

1. The Judicial Magistrate, Tiruchendur.

2. Do through the Chief Judicial Magistrate, Thoothukudi

+One cc to M/s.T.A.Ebenezer, Advocate, SR.No.82582

+One ct to M/s.R.Srinivasan, Advocate, SR.No.32764

SRM

RL/5C/2P/JC/SAR2/2/11/2017

CRL.O.P. (MD) No.1458 of 2015