



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.10.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.OP.(MD)No.20714 of 2016 and
CRL.M.P.(MD)Nos.10532 & 10533 of 2016 & 1412 of 2017

Kannaiah

... Petitioner/Respondent

Vs.

Deepa Lakshmi,
Rep. by Power Agent,
Jayakumar.

... Respondent/Petitioner

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the proceedings in C.C.No.1 of 2016 on the file of the learned Judicial Magistrate No.II, Dindigul and to quash the same.

For Petitioner : Mr.G.Gomathisankar
For Respondent : Mr.Su.Sampathkumar

O R D E R

This Criminal Original petition is filed for quashing the criminal proceedings in C.C.No.1 of 2016 on the file of the learned Judicial Magistrate No.II, Dindigul.

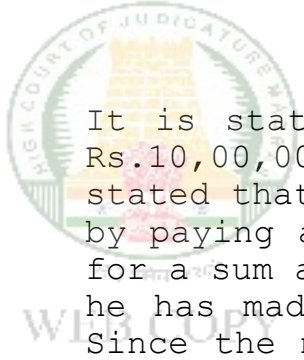
2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

3. The petitioner is the sole accused in the proceedings in C.C.No.1 of 2016 on the file of the learned Judicial Magistrate No.II, Dindigul, which was filed by the defacto complainant for the offence under Section 138 of Negotiable Instruments Act.

4. The case of the petitioner is that he purchased a Plot from the defacto complainant for consideration of a sum of Rs.45,150/- and that he obtained a Sale Deed after payment of the full consideration. However, on the ground that the petitioner has forced the defacto complainant's father to settle the Bank liability to the defacto complainant, the defacto complainant has given a complaint on the basis of the cheque obtained from the petitioner.

<https://hcservices.ecourts.gov.in/hcservices/>

5. The case of the defacto complainant is entirely different.



It is stated that the petitioner purchased the Plot for a sum of Rs.10,00,000/-. At the time of registration of the document, it is stated that the petitioner has promised to discharge the entire loan by paying a sum of Rs.7,75,000/- and he also handed over the cheque for a sum assured by him. It was only on the basis of promise which he has made, the Plot was registered in favour of the petitioner. Since the money is due and the cheque issued by the petitioner was dishonoured when it was presented for collection, the defacto complainant states that a private complaint has been filed in C.C.No.1 of 2016 before the learned Judicial Magistrate No.II, Dindigul.

6. The petitioner has come forward with certain facts which cannot be dealt with by this Court in this petition for quashing the proceedings. The complaint clearly discloses facts regarding the maintainability of the petition for the offences under Section 138 of Negotiable Instruments Act. The proceedings under Section 138 of Negotiable Instruments Act cannot be quashed, merely on the assertion by the accused that no amount is due and that the transaction referred to in the complaint is something different. The scope of Section 482 of Cr.P.C., cannot be enlarged to decide the disputed questions of fact in a petition to quash the criminal proceedings. As the complaint discloses an offence under Section 138 of Negotiable Instruments Act, it is not for this Court to appreciate and even to consider the disputed question of fact. It can be considered only during the trial. Further, the defacto complainant should be given a fair opportunity to prove his case.

7. In that view of the matter, the Criminal Original petition is dismissed.

8. The learned counsel for the petitioner however seeks indulgence of this Court to give a direction to the lower Court to dispose of the criminal proceedings in C.C.No.1 of 2016 within the time stipulated by this Court.

9. The respondent has no objection.

10. Hence, the learned Judicial Magistrate No.II, Dindigul, is directed to dispose of the criminal proceedings in C.C.No.1 of 2016, as expeditiously as possible, preferably, within a period of four months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar



To

1. The Judicial Magistrate No.II, Dindigul.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.G.GOMATHI SANKAR, ADVOCATE IN SR No. 81526
+ 1 CC TO Mr.A.R.KANNAPPAN, ADVOCATE IN SR No. 81561

PMU

TE/KK/SAR-I : 13/10/2017 : 3P/5C

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