



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2017

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THE HON'BLE MR.JUSTICE G.CHOCKALINGAM

Crl.O.P.(MD) No.23990 of 2016
and

Crl.M.P(MD) Nos.12718 and 12719 of 2016

Mr.R.Prabakaran : Petitioner/Accused

-vs-

N.A.Nagalingam : Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to quash the STC No.1450 of 2013 on the file of the Judicial Magistrate No.IV, Trichirappalli.

For Petitioner : Mr.K.Kumaresan
For Respondent : Mr.V.Illanchezian

O R D E R

This petition has been filed, seeking to quash the STC No.1450 of 2013 on the file of the Judicial Magistrate No.IV, Trichirappalli.

2.The case of the prosecution is that the petitioner had borrowed a sum of Rs.5,00,000/- from the respondent for his urgent business and family expenses and he had promised to repay the same with interest @ 18% p.a., but he failed to pay the same.

3.The learned counsel appearing for the petitioner would submit that the respondent filed the present complaint without having any valid reason and that the petitioner had not issued any cheque in favour of the respondent on 15.07.2014 and 17.07.2013 and that the alleged transaction between the respondent and the petitioner itself is false and created only for the purpose of filing this case and that the respondent had not disclosed any details of the allegations raised by the petitioner in the reply notice, dated 06.08.2013 and that the respondent had filed the present complaint under section 138 of Negotiable Instrument Act without having any prima facie case against the petitioner. Hence, he prayed that the case in STC No.1450 of 2013 has to be quashed.

4.The learned counsel appearing for the respondent would submit that the allegations stated in the petition are false and this petition is filed only to drag on the proceedings. Hence, he prayed for the dismissal of the petition.



5. This court has carefully heard the submission made on either side and perused the entire materials available on record.

6. It is seen from the records that the petitioner has borrowed a sum of Rs.5,00,000/- from the respondent and subsequently, to settle the dues, issued two cheques on 18.07.2013 and 20.07.2013. When the cheques were presented for collection, they were returned as "Insufficient funds". Thereafter, the respondent issued a legal notice to the petitioner on 01.08.2013, for which, the petitioner has given a reply on 06.08.2013. Thereafter, the complaint was preferred before the competent court on 03.09.2013 by the respondent and it was taken on file in STC No.1450 of 2013 by the Judicial Magistrate No.IV, Trichirapalli. Since, prima facie materials available against the petitioner, the real truth will come into light, only after conducting the trial of the case in STC No.1450 of 2013. In view of the above circumstances, this court is of the considered view that the quash petition filed by the petitioner is a premature one and hence, the relief sought for by the petitioner cannot be granted.

7. In the result, this petition is **dismissed** with a direction to the Judicial Magistrate No.IV, Trichirapalli, to post the case in STC No.1450 of 2013 on day today basis and dispose of the case, on merits and in accordance with law, within a period of three weeks from the date of receipt of a copy of this order and report the same to the Registry. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.IV, Trichy.
2. -do- thro' The Chief Judicial Magistrate, Trichy.

Copy To:-

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court, Madurai.
(For getting the report, as directed by this Court)

ER

TE/SKN-RSK : 23/03/2017 : 2P/4C