



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2017

CORAM:

THE HON'BLE MR.JUSTICE R.SUBBIAH

Crl.O.P. (MD) Nos.4631 of 2011 and 12712 of 2014
and
M.P. (MD) Nos.1 of 2011 & 1 of 2014

Crl.O.P. (MD) .No.4631 of 2011

S.A.Jamal Mohammed ... Petitioner/Accused

Vs.

e.Mathavan ... Respondent/complainant

Prayer: Petition filed under Section 482 of Cr.P.C., praying to call for the records relating to S.T.C.No.532 of 2011 on the file of the Chief Judicial Magistrate, Kumbakonam and to quash the same.

For Petitioner : Mr.P.Muthusamy

For Respondent : Mr.B.Jameelarasu

Crl.O.P. (MD) .No.12712 of 2014

1.Jamal Mohammed

2.Aiyesa beevi ... Petitioners/Accused

Vs.

1.The Inspector of Police,
Papanasam Police Station,
Thanjavur District.

... 1st respondent /Complainant

2.Mathavan
complainant

... 2nd respondent/ Defacto

Prayer: Petition filed under Section 482 of Cr.P.C., praying to call for the records relating to C.C.No.47 of 2014 on the file of the District Munsif cum Judicial Magistrate, Papanasam and to quash the same.



For Petitioner : Mr.P.Muthusamy
For 1st respondent : Mr.C.Mayilvahana Rajendran,
Addl. Public Prosecutor
For 2nd respondent : Mr.B.Jameelarasu

* * * * *

COMMON ORDER

These petitions have been filed by the petitioners praying to quash the criminal proceedings in S.T.C.No.532 of 2011 on the file of the learned Chief Judicial Magistrate, Kumbakonam and in C.C.No.47 of 2014 on the file of the learned District Munsif cum Judicial Magistrate, Papanasam.

2.The respondent / complainant viz., E.Mathavan has filed a complaint under Section 138 of the Negotiable Instruments Act as against the petitioner by name Jamal Mohammed alleging that the cheque given by Jamal Mohammed for repayment of the loan amount of Rs.1,11,000/- has been returned by the Bank stating "insufficient funds" and that even after receipt of legal notice, he did not repay the amount. The said complaint was taken on file in S.T.C.No.532 of 2011 by the learned Chief Judicial Magistrate, Kumbakonam. The very same complainant has lodged a complaint before the Inspector of Police, Papanasam Police Station alleging that the said Jamal Mohammed and his wife viz., Aiyesa beevi, under the guise of getting a job in abroad, cheated the defacto complainant to the tune of Rs.1,11,000/- and when he questioned the same, they gave life threat to him. The said complaint has been registered in Crime No.5 of 2011 under Sections 294(b), 420 and 506(ii) IPC and after investigation, a charge sheet has been filed and thereafter, the same has been taken on file in C.C.No.47 of 2014 by the learned District Munsif cum Judicial Magistrate, Papanasam. Seeking to quash these proceedings, the petitioners have filed these petitions.

3.When Crl.O.P.(MD).No.4631 of 2011 came up for hearing on 12.01.2017, considering the submissions of the learned counsel appearing for both sides that there is a possibility of settlement in the case, this Court referred the matter to the Mediation and Conciliation Centre, attached to this Bench, wherein the parties arrived at a amicable settlement as follows;

"1.The petitioner S.A.Jamal Mohammed agreed to refund the cheque amount of Rs.1,11,000/- (Rupees one lakh and eleven thousand only) to the respondent E.Mathavan and the respondent



E.Mathavanan also agreed to receive the amount as full quit on or before 24.02.2017.

2.After receiving the cheque amount thro' Demand draft within the stipulated period, the respondent E.Mathavan shall appear before this Hon'ble Court for giving no objection to quash the CrI.O.P.(MD)No.4631 of 2011 and CrI.O.P.(MD). No.12712 of 2014.

3.The respondent E.Mathavan represents before the Mediation Centre that at the time of filing the S.t.C.No.532 of 2011 on the file of the Chief Judicial Magistrate, Kumbakonam, his name the complainant therein was E.Mathavan and now he changed his name as E.Karunakara Mathavan. Therefore, he requested the Demand draft in his new name E.Karunakara Mathavan to facilitate him to encash the D.D. In his bank account. In such an event he swears that even giving the D.D. In his new name the entire amount would be discharged and the petitioner would be absolved from liability.

In view of the above said settlement the case is settled."

4.Today, when both the matters were taken up for hearing, both the parties appeared before this Court and the complainant has stated that he has received a sum of Rs.1,11,000/- from the petitioners and that he has no objection to quash both the proceedings. To that effect, the parties have also filed a Joint Compromise memo.

5.Heard both sides and perused the materials available on record.

6.Considering the facts and circumstances of the case and in view of the compromise arrived at between the parties, I am of the opinion that the criminal proceedings in S.T.C.No.532 of 2011 on the file of the learned Chief Judicial Magistrate, Kumbakonam and in C.C.No.47 of 2014 on the file of the learned District Munsif cum Judicial Magistrate, Papanasam, are liable to be quashed and accordingly, the same are quashed in respect of the petitioners herein.

7. In fine, Both the criminal original petitions are allowed. Consequently, Connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/



To,

1.The Chief Judicial Magistrate,
Kumbakonam.

2.The District Munsif cum Judicial Magistrate,
Papanasam.

3.The Inspector of Police,
Papanasam Police Station,
Thanjavur District.

4.The Addl. Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.P.Muthusamy, Advocate in SR.No:12706

gcg

AE/RR/19.04.2017/3P/6C

**Crl.O.P. (MD) Nos.4631 of 2011
and 12712 of 2014
03.03.2017**