

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.10.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

CRL.O.P.No.1465 of 2016

V.P.Govindasamy

...Petitioner / Accused

Vs.

Kanava Pictchai
Complainant

...Respondent / De-facto

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the criminal proceedings pending in C.C.No.100 / 2015, Fast Track Magistrate Court, Tirupur.

For Petitioner :M/s.C.Srinivasan
For Respondent :No appearance

O R D E R

This petition has been filed by the accused to quash the proceedings against him in C.C.No.100 of 2015 on the file of the Fast Track Court (Magistrate Level), Tirupur.

2. The learned counsel for the petitioner has submitted that the respondent herein has filed a private complaint under Section 138 of Negotiable Instruments Act, alleging that the petitioner herein has borrowed a sum of Rs.5 lakhs from him on 15.12.2012 and with a view to discharge the said loan, the petitioner has received a cheque for Rs.5,00,000/- (Rupees Five Lakhs Only) dated 29.04.2013. He further submitted that the petitioner and the respondent are friends and due to the said friendship, the respondent entered into an agreement with the petitioner on 01.04.2012. The petitioner herein has obtained a loan for a sum of Rs.5,00,000/- (Rupees Five Lakhs Only). He further submitted that as a security to repay the said amount, the petitioner has issued a cheque for Rs.5,00,000/- (Rupees Five Lakhs Only) on 29.04.2013 and subsequently, he repaid the said amount on various dates with interest and totally he has paid a sum of Rs.5,50,500/ (Rupees Five Lakhs Fifty Thousand Five Hundred Only) and suppressing the said fact, the respondent has filed the above criminal case and he further submitted that the aforesaid

payment was made only through cheque and the bank statements would reflect the aforesaid payment and therefore he prayed to quash the proceedings against the petitioner.

3. Though the respondent has received a notice, he has not appeared either in person or through his counsel.

4. The petitioner has not disputed the borrowing of the amount from the respondent and also issuance of a cheque for Rs.5,00,000/- (Rupees Five Lakhs Only) dated 29.04.2013. According to the petitioner, he has repaid the aforesaid loan with interest on various dates through cheques. The aforesaid facts are matter for appreciation of evidence. This Court cannot appreciate the facts while dealing with the petition under Section 482 of Cr.P.C. It is open to the petitioner to produce all the evidence before the trial Court to establish his case.

5. For the aforesaid reasons, this Criminal Original Petition is dismissed. The learned counsel for the petitioner has submitted that the petitioner is an aged person and it is very difficult for him to appear before the trial Court for each and every hearing. Considering the said submissions, the personal appearance of the petitioner before the trial Court is dispensed with. The petitioner is directed to appear before the trial Court as and when required by the trial Court.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

gsp

To

1. The Judicial Magistrate No.I, Tirupur.

Do Through The Chief Judicial Magistrate, Tirupur.

2. Fast Track Magistrate Court, Tirupur.

+1 CC to Mr.C. Srinivasan, Advocatre sr 69935.

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VGI(CO)

SP(07/12/2018)