

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2018

CORAM

THE HONOURABLE Mr.JUSTICE M. NIRMAL KUMAR

Cr1.O.P.No.15712 of 2011

and

M.P.No.1 of 2011

C.Sekar,
S/o.Chellppan.

... Petitioner/Accused

Versus

S.Udhaya Shankar

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.8767 of 2010 on the file of the XVIII Metropolitan Magistrate Court, Saidapet, Chennai and quash the same.

For Petitioner : Mr.V.Rameshvel

For Respondent : No appearance

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O R D E R

This Criminal Original Petition is filed to call for the records in C.C.No.8767 of 2010 on the file of the XVIII Metropolitan Magistrate Court, Saidapet, Chennai and quash the same.

2.The petitioner herein has filed a quash petition to quash the proceedings in C.C.No.8767 of 2010, which has been filed by the respondent/complainant and the same is pending trial on the file of the XVIII Metropolitan Magistrate Court, Saidapet, Chennai for the offence under Section 138 of the Negotiable Instruments Act.

3.The contention of the learned counsel for the petitioner is that the cheque in issue was not issued by the petitioner and the petitioner is not the signatory of the cheque and further, he states that the petitioner, who is A2 before the Trail Court is not the drawer of the cheque and he has not issued any cheque

in discharge of any liability and further, he submits that even in the complaint there is no averments mentioned with regard to the over tact of this petitioner.

4. On going through the complaint, it is seen that it is an admitted case of the respondent that the accused had not signed and issued the cheque bearing No.013648 dated 24.12.2009 for a sum of Rs.85,000/- (Rupees Eighty five thousand only), which is the cheque in issue before the Trial Court and further, it is seen that this petitioner on receipt of the Statutory Notice on 07.06.2010, had sent a reply notice dated 17.06.2010, stating that he has not the signatory of the cheque in issue and he has not handed over the cheque in discharge of any of his liability towards the complainant. Hence, at the first instance itself, the petitioner had put-forth his case. The petitioner had informed the respondent that he is not the signatory of the cheque in issue and he has not issued any cheque in discharge of his liability and further, it is seen that except for a bald averments against the petitioner, nothing is stated about the petitioner in the complaint. In view of the above, this Court finds that the case against the petitioner is not sustainable.

5. In view of the above, the quash petition filed by the petitioner is allowed. The proceedings as against the petitioner alone stands quashed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The XVIII Metropolitan Magistrate,
Saidapet, Chennai

2.-do thro The Chief Metropolitan Magistrate,
Egmore, Chennai.

3.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.V.Rameshvel, Advocate sr.no.45498

CrI.O.P.No.15712 of 2011

svn(co)
nr 03/08/2018



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