

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 20.03.2018
CORAM
THE HONOURABLE MR. JUSTICE M.S.RAMESH
Crl.O.P.No.22811 of 2017

P.Namachivayam

... Petitioner/Accused No.2

Versus

Ramaraj

... Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C. pleaded to call for the records in C.C.No.55 of 2006 on the file of the learned Judicial Magistrate, Bhavani and Quash the said proceedings in so far as it relates to the petitioner.

For Petitioner : Mr.Rajakalifullah
Senior Counsel
for Mr.C.M.Anand

For Respondent : No appearance

O R D E R

The prayer in the present petition is filed to call for the records in C.C.No.55 of 2006 on the file of the learned Judicial Magistrate, Bhavani and Quash the said proceedings in so far as it relates to the petitioner.

2. Though notice was served on the respondent and his name is also printed in the cause list, none appears on behalf of the respondent.

3. On the basis of the dishonoured Cheques, a complaint came to be filed by the respondent herein in C.C.Nos.54,55,56 and 57 of 2006 out of which, C.C.No.55 of 2006 relates to the petition.

4. The learned Senior Counsel appearing for the petitioner submit that the entire amount due under the four cheques, which were the subject matter in the aforesaid complaints, has been paid and as such, the complaints are baseless.

5. It is further submitted that the Trial Court had taken note of this aspect and had held that the amount due under the cheques in C.C.No.54 to 57, was not paid within a period of 15 days and therefore, the petitioner was imposed with sentence to undergo 3 months simple imprisonment along with fine of Rs.500/-. As against the same, he had preferred appeals in

C.A.No.169,170, 171 of 2010 before the learned Additional District and Sessions Court (FTC) No.4, Bhavani and by an order dated 11.05.2011, the said appeals came to be allowed and the conviction and sentence imposed by the Trial Court was set aside.

6. The facts and the cause of action in all these 3 complaints in C.C.Nos.54,56,57 are similar to that of the present impugned complaint in C.C.No.55 of 2006.

7. As rightly pointed out by the learned Senior Counsel appearing for the petitioner, when the Trial Court has categorically found that the amount of the cheques was duly repaid and that the only lucana with regard to the paid amount was not within the statutory period, was also set aside in appeal, the petitioner herein, who is also similarly placed as that of the accused in C.C.No.54,56,57 of 2006, will be entitled to the same relief.

8. Heard Mr.Rajakalifullah, learned Senior Counsel appearing for the petitioner and none appeared for the respondent.

9. In the result, the Criminal Original Petition is allowed and the proceedings in C.C.No.55 of 2006, which is pending before the learned Additional District and Sessions Court (FTC) No.4, Bhavani is quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

klr

To

1.The Judicial Magistrate, Bhavani.

2.The Additional District and Sessions Court (FTC) No.4, Bhavani.

3. -do-Thro The Chief Judicial Magistrate
Erode

4.-do-Thro The Principal Sessions Judge,
Erode

5.The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.22811 of 2017

aa03/05/2018