

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.04.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.11205 of 2018
and CRL.M.P.No.5786 of 2018

P.Sumathi .. Petitioner/Accused

Vs

V.Sankaran .. Respondent/Complainant

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records and quash the proceedings in S.T.C.No.294 of 2017 on the file of the learned Judicial Magistrate, FTC at Ambattur.

For Petitioner : Mr.P.M.Ramanamoorthy

For Respondent : No appearance

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in S.T.C.No.294 of 2017 on the file of the learned Judicial Magistrate, FTC at Ambattur.

2.Heard the learned counsel for the petitioner/accused and perused the materials placed on record.

3.For the sake of convenience, the parties will be referred to as complainant and accused. It is the case of the complainant that the accused had borrowed Rs.3,00,000/- and had executed a promissory note on 10.05.2014. It is the further case of the complainant that in discharge of the said liability, the accused had issued a cheque for Rs.3,00,000/- and when the cheque was presented, it was dishonoured for insufficiency of funds on 06.03.2017. The complainant issued a statutory notice dated 14.03.2017, for which, the accused neither replied nor made any payment. Therefore, the complainant has initiated a prosecution in S.T.C.No.294 of 2017 under Section 138 of Negotiable Instruments Act, 1881 and the same is pending trial,

on the file of the Fast Track Court Magisterial Level, Ambattur, for quashing which, the accused has filed the present petition.

4.Learned counsel for the accused submitted that the accused has paid the major portion of the amount to the complainant from 30.07.2014 to 10.10.2015 and that only a sum of Rs.16,000/- is due from the accused to the complainant. In support of this contention, learned counsel for the accused drew the attention of this Court to a statement of accounts annexed in the typed set of papers. On a perusal of the statement of accounts, it does not even bear the signature of any party. Learned counsel for the accused submitted that the cheque was given as a security and the same has been misused by the complainant.

5.In opinion of this Court, disputed question of facts cannot be gone into, in a quash petition under Section 482 of Cr.P.C. In such view of the matter, this petition is devoid of merits and dismissed with liberty to the petitioner to raise all the points before the trial Court. Consequently, connected Miscellaneous Petition also dismissed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate,
FTC, Ambattur.
2. Do- Thro' The Chief Judicial Magistrate
Chennai
3. The Public Prosecutor,
High Court, Madras.

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