

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 13.04.2018

PRONOUNCED ON : 18.04.2018

CORAM :

THE HONOURABLE MR.JUSTICE P.N. PRAKASH

Criminal Original Petition No.11326 of 2018

and Crl.M.P.Nos.5856 and 5857 of 2018

G.S.Ayajuriesh

... Petitioner/Accused

Vs.

A.Parimala

... Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in STC No.4132 of 2017 pending on the file of the Judicial Magistrate, Thiruvottiyur and quash the same.

For Petitioner : Mr.N.Seshadri

ORDER

This petition has been filed to call for the records in STC No.4132 of 2017 pending on the file of the Judicial Magistrate Court, Thiruvottiyur and quash the same.

2. For the sake of convenience, the petitioner and the respondent will be referred to as the accused and the complainant respectively.

3. It is the case of the complainant that the accused borrowed Rs.1.50 lakhs from the complainant and executed a promissory note dated 16.03.2016; that in discharge of the debt, the accused gave a cheque dated 29.06.2017 for the said sum, which, when presented by the complainant was returned with the endorsement "account closed". The complainant issued a statutory notice dated 14.07.2017, which was received by the accused on 22.07.2017; that the accused gave a reply dated 11.08.2017, but had not made payment towards the bounced cheque.

Hence, the complainant has initiated a prosecution in STC No.4132 of 2017 under Section 138 of the Negotiable Instruments Act before the Judicial Magistrate, Thiruvottiur, against the accused for quashing which, the accused is before this Court.

4. Heard the learned counsel for the accused, who submitted that the accused had closed the bank account in the year 2014 itself and therefore, the accused would not have issued the cheque in the year 2017 as contended by the complainant. The learned counsel further submitted that there are several corrections in the said cheque, which would amount to material alterations and therefore, the prosecution should be quashed. He also contended that the promissory note that has been filed along with the complaint also suffers from glaring infirmities.

5. In the considered opinion of this Court, these are disputed questions of fact, which cannot be gone into in a quash application. Hence, this petition is devoid of merits and the same is dismissed with liberty to raise all the points before the trial Court. Consequently, connected miscellaneous petitions are closed.

6. The petitioner is directed to surrender before the trial Court within four weeks from the date of receipt of a copy of this order and on such surrender, he shall file an application under Section 436(1) Cr.P.C. for bail. The trial Court is directed to release the petitioner on bail on the same day, on he executing a bond for a sum of Rs.10,000/- with two sureties to the satisfaction of the Judicial Magistrate, Thiruvottiur.

If thereafter the petitioner absconds, the trial Court shall direct the registration of an FIR against him u/s 229-A IPC.

Sd/-

Asst.Registrar (CS IX)

/true copy/

Sub Asst. Registrar

gms

To

1.The Judicial Magistrate,
Thiruvottiur.

2.The Public Prosecutor
High Court, Madras.

+lcc to Mr.N.Seshadri, Advocate sr.no.28745

CrI.O.P.No.11326 of 2018

nr 27/04/2018



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