

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2018

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.5958 of 2010

and

M.P.No.1 of 2010

Kochumon

Proprietor - M/s. Puthuvel Associates
KMC XXX 11/366-3, Near KSRTC
No.47, Kayamkulam,
Kollam District,
Kerala.

... Petitioner/Accused

Vs.

S.Ramesh Kumar Jain
Proprietor
M/s.Aadinath Impex
Rep. by his Power Agent
Madanlal.R.Banda
S/o.Roopchand
No.986, 1st Floor, Mettupalayam Road,
Coimbatore - 641 002.

...Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the C.C.No.458/2009 on the file of the Judicial Magistrate I, Coimbatore, quash the same.

For Petitioner : Mr.AR.M.Arunachalam
For Respondent : No appearance

O R D E R

The petitioner/accused herein has filed this Criminal Original Petition to quash the complaint filed by the respondent under section 138 of the Negotiable Instruments Act, 1881 which is pending on the file of the Judicial Magistrate Court No.1, Coimbatore in C.C.No.458 of 2009.

2. The contention of the learned Counsel for the petitioner is that the respondent has made allegations in the complaint as if the petitioner is a stranger to him, who had illegally unloaded and removed the consignment/goods meant to be supplied to a third person.

3. Further, no bills invoices had been produced by the respondent before the trial Court. The learned Counsel for the petitioner further contended that the cheque, in issue was given as security to the respondent and the respondent had filled up and presented the same for encasement and the cheque got dishonoured and the case has been filed under section 138 of the Negotiable Instruments Act.

4. On perusal of the documents, it is seen that there has been business transaction between the petitioner and the respondent. The signature in the cheques are not denied by the petitioner. After the cheques were dishonoured the complainant issued a statutory notice dated 02.03.2009 to the petitioner/accused and the same was received by the petitioner/accused on 09.03.2009. The petitioner/accused neither replied nor complied the same. The above complaint has been filed in time, within the stipulated period.

5. In such circumstances, this Court feels that the contention of the petitioner cannot be countenanced and hence the Criminal original petition is liable to be dismissed. Further, the case is pending from the year 2009, without any progress due to the pendency of the above case.

6. In the result, the Criminal original Petition filed by the petitioner to quash the complaint is dismissed. Further, the Trial Court is directed to complete the trial and take effective coercive steps to complete the trial and conclude the same, within a period of three months from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

msrm

To

1. The Judicial Magistrate,
No. I, Coimbatore,
2. The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.5958 of 2010

AK(CO)
BM 01/08/2018