IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2018

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.4340 of 2011

L.Venkatesh .. Petitioner

Vs.

S.Ramesh ...Respondent

PRAYER: The Criminal Original Petition has been filed under Section 482 of Cr.P.C, to call for the records and quash the complaint filed under Section 138 and 142 of Negotiable Instrument Act 1881 as amended by the Banking Public Financial Institutions and Negotiable Instruments Law Amendment Act, 1988 in C.C.No.6 of 2010 pending on the file of the Court of Judicial Magistrate-II, Tiruvannamalai.

For Petitioner : Ms.M.R.Sakunthala
For Respondent : Mr.L.S.Idhaya Amudhan

O R D E R

The petitioner is the accused in C.C.No.6 of 2010 on the file of learned Judicial Magistrate-II, Thiruvannamalai, which has been initiated by the respondent / complainant for offence under Section 130 of Negotiable Instrument Act, 1881.

2. The case of the respondent is that the accused used to purchase the clothes in wholesale in Thiruppur and used to sell it in Vellore from the year 2007. The petitioner is known to the respondent and on the request of the petitioner, the respondent had given him a sum of Rs.15,00,000/- as loan at the rate of 12% interest per month on 10.09.2008. For the purpose of repayment and discharge of the said liability, the petition herein had given a post dated cheque No.192919 dated 15.09.2009 for Rs.15,00,000/- drawn on Bank of Baroda, Vellore Branch, during September 2009. When the respondent had approached the petitioner and asked for repayment of the loan, the petitioner has stated that the Cheque can be presented for encashment. Based on his representation, the respondent had deposited the Cheque for encashment on 19.09.2009, which was returned by the

Bankers of the respondent to him by Bank Return Memo dated 01.10.2009 and statutory notice was ordered on 26.10.2009 which was received by the petitioner on 29.10.2009. The petitioner had not either made the payment nor replied but had closed the account and thereby made himself liable to be prosecuted.

3. On going through the grounds raised by the petitioner, it is found that the petitioner has stated that he had never met the respondent and he is no way connected with him. The petitioner had approached only one Dr.S.Palanisamy, who is residing in Gandhi Nagar (West) Vellore, for loan. The said Palanisamy while giving the loan to the petitioner, took 6 Blank cheques of Indian Overseas Bank, Auxilian College Branch, Lakshmi Vilas Bank, Vellore and Bank of Baroda, Vellore Branch. The said Palanisamy had demanded exorbitant money by claiming unlawful interest. Having aggrieved over the same, this petitioner issued legal notice to the said Dr.Palanisamy through his counsel. Further the petitioner had also made representations to the Superintendent of Police, Vellore District. In this regard, the petitioner along his brother viz., Mr.L.Jaganathan had filed a case in K.V.O.P.No.2 of 2009 before the learned Sub-Ordinate Judge, Vellore under section 5 and 6 of TamilNadu Prohibition of Charging Exorbitant interest Act , 2003. The above case was filed on 05.01.2009 and the same is pending. Further contention raised by the petitioner is that the respondent, by using one of the Cheques issued by him to Dr.Palanisamy, had filed the case under Section 138 of the Negotiable Instruments Act.

4. The petitioner would further submit that he is residing in Vellore and the entire cause of action, arise in Vellore and no cause of action in Tiruvannamalai and hence, the filing of the case before the Judicial Magistrate No.II in Tiruvannamalai, is without jurisdiction.

5. On going through the complaint, it is found that all the statutory compliance have been complied with and the Lower Court had taken it on file. In such circumstances, the grounds raised by the petitioner are untenable.

6. With the above observation, the criminal Original petition is dismissed.

7. It is found that the Section 138 summons case is pending before the Judicial Magistrate No.II, Thiruvannamalai from the year 2010. For the past 8 years, the case is without any progress and it is found from the list of witnesses that other than the complainant, there are only Bank Managers, who are in formal nature as per the amendments under Section 146 of the Negotiable Instrument Act and hence, it might not be necessary to examine the Bank Officials.

8. In such circumstances, the Trial Court is directed to complete the trial within a period of three months from the date of receipt of a copy of this order and report the compliance.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.II
Tiruvannamalai

+1cc to Mr.T.P.Prabakaran, Advocate, S.R.No.43869

Crl.O.P.No.4340 of 2011

BS(CO)
GSP(24/07/2018)