

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2018

C O R A M

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

CrI. O.P. No.31641 of 2012
and
M.P. Nos.1 & 2 of 2012

Vadivelu

... Petitioner

Vs.

Arihant Finance
Prop:K.Anil Kumar Jain

.... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records in C.C. No.2594 of 2012 on the file of the Court of VIII Metropolitan Magistrate at George Town and quash the same.

For Petitioner : Mr.M.Gnanasekar
For Respondent : Mr.M.Arvindkumar for
Mr.P.Velmurugan

ORDER

The Petitioner is the accused in C.C. No.2594 of 2012 on the file of the learned VIII Metropolitan Magistrate, George Town, Chennai.

2. The respondent/complainant filed a private complaint under Section 200 Cr.P.C before the learned VIII Metropolitan Magistrate, George Town, Chennai, against the accused (the petitioner herein) for an alleged offence punishable under Section 138 of the Negotiable Instruments Act. The learned VIII Metropolitan Magistrate, George Town, Chennai took cognizance of the offence and issued summons to the petitioner/accused.

3. In the present petition, the petitioner has contended that the petitioner entered into a Hire purchase agreement for purchase of a Tipper lorry bearing Registration No.TN-22 AL 3243 (ASHOK LAYLAND 2005 Model) and issued blank signed cheques during the year 2008 to the respondent towards security and that one of the cheques has been filled in subsequently by the

respondent/complainant for the purpose of filing the complaint under Section 138 of the Negotiable Instruments Act and that he is not liable to pay any amount to the respondent/complainant.

4. According to the petitioner he has already paid a sum of Rs.9,56,000/- towards the Hire Purchase agreement and that even though as per the receipts issued by the respondent/complainant the petitioner/accused had paid a sum of Rs.9,00,000/-. The respondent/complainant in his notice dated 26.12.2011 has alleged that the petitioner/accused has paid only a sum of Rs.3,16,000/-. His specific contention is that the private complaint filed by the respondent is an abuse of process of law and is therefore, cannot be maintained.

5. At the outset, it may be observed that the petitioner has not disputed his signature on the impugned cheque dated 01.12.2011. His Contention is that one of the cheques issued by him during the year 2008 was misused by the respondent/complainant for filing the complaint before the VIII Metropolitan Magistrate at George Town, Chennai. Since this is a disputed question of fact, it cannot be gone into at this stage. A perusal of the Private Complaint in C.C. No.2594 of 2012 and other related records prima facie shows that there are materials to proceed against the petitioner/accused and the learned VIII Metropolitan Magistrate at George Town, Chennai cannot be faulted with for taking cognizance of the offence. All the allegations levelled by the petitioner/accused can be decided only after a full-fledged trial and I therefore, see no reason to quash the proceedings in C.C. No.2594 of 2012 on the learned VIII Metropolitan Magistrate at George Town, Chennai.

6. In the result this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are also closed. Since the case is pending from the year 2012, learned VIII Metropolitan Magistrate at George Town, Chennai is directed to dispose of the case within a period of three months from the date of receipt of a copy of this order uninfluenced by any of the observations made by this Court in the instant petition.

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Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rkp

To

The VIII Metropolitan Magistrate,
George Town,
Chennai.

+1cc to Mr.M.Gnana Sekar, Advocate, S.R.No.45273

Cr1. O.P. No.31641 of 2012
and
M.P. Nos.1 & 2 of 2012

GSP (24/07/2018)



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