IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2018

C O R A M

THE HONOURABLE Mrs.JUSTICE R.HEMALATHA

Crl.O.P.No.14897 of 2010
and
MP.Nos.1 of 2010 & 1 of 2011

1.Team Share & Investment,
No.82-L, First Floor,
Salem Road, Namakkal
2.V.Leo Tolstoy
3.M.Parthiban ...Petitioners

Vs.

T.R.Duraisamy ... Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C to call for the records relating to S.T.C.No.197 of 2010 pending before the Judicial Magistrate No.I, Namakkal and quash the same.

For Petitioners : Mr.V.G.Anbarasu
For Respondent : M/s.K.V.Sridharan

O R D E R

This criminal original petition has been filed to call for the records relating to S.T.C.No.197 of 2010 pending before the Judicial Magistrate No.I, Namakkal and quash the same.

2. The petitioners are the accused in STC.No.197 of 2010 on the file of the Judicial Magistrate No.I, Namakkal. They have filed the present petition to call for the records in respect of STC.No.197 of 2010 and to quash the same. The respondent / complainant filed a private complaint under Section 200 Cr.P.C. before the learned Judicial Magistrate No.I, Namakkal against the petitioners herein for an alleged offence punishable under Section 138 of Negotiable Instruments Act.

3. The brief case of the respondent / complainant is as follows:

The second and third accused are running the first accused firm which is an authorised dealer of Reliance Money Limited and they are dealing with buying and selling of shares.

The respondent / complainant is a customer of the petitioner's firm. The specific contention of the respondent / complainant is that he invested several lakhs of rupees for buying and selling of shares and that the first accused company swindled the money of respondent / complainant to the tune of Rs.40,00,000/- Therefore, the respondent / complainant lodged a complaint with the Inspector of Police, Namakkal Police Station on 22.10.2009 and thereafter, the accused 1 to 3 executed a cheque for Rs.40,50,000/- dated 07.12.2009 drawn on Kotak Mahindra Bank. When the cheque was presented for encashment, the same was returned for the reason "payment stopped". Therefore, he filed a complaint in STC.No.197 of 2010 against the present petitioners herein who are the accused in that case.

4. In the instant case, the main contention of the petitioners / accused is that the filing of STC.No.197 of 2010 before the Judicial Magistrate No.1, Namakkal is a clear abuse of process of law and that cheques were forcibly obtained from them for filing of STC.No.197 of 2010. He would contend that he also lodged a complaint with the Inspector of Police, Namakkal Police Station against the respondent herein contending that the respondent extorted the cheques from him. According to him, after investigation, the police filed a final report in CC.No.163 of 2010 for the offences punishable under Sections 347 and 387 IPC before the Judicial Magistrate No.I, Namakkal.

5. Per contra, the learned counsel appearing for the respondent would contend that STC.No.197 of 2010 has been filed based on the cheque issued by the accused who are the petitioners herein and that there is no abuse of process of law in filing STC.No.197 of 2010.

6. Heard the rival submissions of both sides.

7. At the outset, it may be observed that the petitoners though have contended all the allegations contained in STC.No.197 of 2010 are false and the same is ill-motivated, nothing has been placed before this Court to accept the versions of the petitioners. Mere bald allegations of the petitioners in this regard are not sufficient. The fact that the Police have filed final report against the petitioners herein based on the complaint given by the respondent / complainant cannot be a reason to quash the proceedings. Further the allegations that the respondent got the cheques from the petitioners by extortion is a disputed question of fact which can be decided only after taking evidence on both sides.

8. At this juncture, it is relevant to point out that the respondent herein has filed MP.No.1 of 2011 seeking for stay of entire proceedings in CC.No.163 of 2010 and an order of interim stay was also granted in above MP.No.1 of 2011. During the

course of arguments, the learned counsel for the respondent not pressed the above MP.No.1 of 2011 and therefore, the petition in MP.No.1 of 2011 stands dismissed and the order of stay granted in MP.No.1 of 2011 stands vacated.

9. Since it is pointed out by both the counsels on record that CC.No.163 of 2010 and STC No.197 of 2010 arise out of the same transanction, both the cases can be disposed of simultaneously by the learned Judicial Magistrate No.1, Namakkal.

10. STC.No.197 of 2010 and CC.No.163 of 2010 are pending for more than eight years and the learned Judicial Magistrate No.I, Namakkal is directed to take both matters simultaneously and dispose of the same within a period of three months from the date of receipt of a copy of this Order by posting the cases on day to day basis.

11. With the above observations, this petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.I,
Namakkal

2.The Chief Judicial Magistrate,
Salem.

Copy TO

1.The Section Officer,
Criminal Section,
High Court, Madras.(2 Copies)

+1cc to Mr.K.V.Sridharan, Advocate SR.No.27320

Crl.O.P.No.14897 of 2010
and MP.Nos.1 of 2010 & 1 of 2011

KGK(CO)
GN(26/04/2018)