

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 29.06.2018
Pronounced on : 19.07.2018

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.19962 of 2010
and
M.P.Nos.1 & 2 of 2010

S.Ramachandran,
S/o.Shankararaj. Petitioner/Single
Accused

Vs.

R.Arumugam,
S/o.Rayappa Gounder. Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to C.C.No.263 of 2010 on the file of the Judicial Magistrate Court No.V, Coimbatore and quash the same.

For Petitioner : Mr.T.Muruganantham

For Respondent : No appearance (Notice served)

O R D E R

This Criminal Original Petition is filed to call for the records relating to C.C.No.263 of 2010 on the file of the Judicial Magistrate Court No.V, Coimbatore and quash the same.

2.The petitioner herein who has filed this quash petition is a single accused in C.C.No.263 of 2010 pending on the file of the Judicial Magistrate Court No.V, Coimbatore. A private complaint has been filed under Section 138 of the Negotiable Instruments Act by the respondent herein.

3.The contention of the learned counsel appearing for the petitioner is that the petitioner had business transaction with one Mahendran @ Thambu in the year 2003. He had given the above cheque to the said Mahendran, who had misused the cheque which was not issued in favour of the respondent. When he had presented the cheque for realization got dishonoured and the respondent had filed the above complaint.

4.Further, the learned counsel appearing for the petitioner submitted that a detailed reply notice dated

20.07.2009, issued to the respondent. Despite the reply notice, the complaint has been filed. The petitioner also preferred a Police complaint against the respondent on 16.07.2009, with the Inspector of Police, Modakuruchi Police Station, Erode District. The learned counsel for the petitioner further states that the respondent is a total stranger and he has no liability towards the respondent and hence, the above quash petition is filed.

5. On going through the complaint, it is found that the petitioner had received a sum of Rs.4,00,000/- (Rupees Four lakh only) from the respondent on 05.02.2009, for his urgent family and business expenditure and agreed to pay the same within a period of three months, since, the petitioner failed to make the payment, despite repeated demands made by the respondent, finally, the petitioner had issued a cheque bearing No.592344 dated 05.06.2009 for a sum of Rs.4,16,000/- (Rupees Four lakh sixteen thousand only) inclusive of the interest amount at the rate of 12%.

6. The said cheque bearing No.592344 drawn on Indian Bank, Sowripalayam Branch, Coimbatore has been issued in discharge of the liability of the petitioner. When the cheque was presented on 10.06.2009 with the respondent bankers namely Tamil Nadu Mercantile Bank Limited, Coimbatore Main branch, the same was dishonoured for the reasons "Funds insufficient" and vide memo dated 12.06.2009 the bank had returned the cheque, which was intimated to the respondent on 29.06.2009. Thereafter, Statutory notice dated 07.07.2009 was issued to the petitioner, who had received the same on 09.07.2009, but had failed to make the payment. Hence, the complaint has been filed before the concerned Court.

7. The contention of the learned counsel appearing for the petitioner is that he had denied his liability towards the respondent had sent a detailed reply notice on 20.07.2009 and had also given a complaint on 16.07.2009 with the Inspector of Police, Modakuruchi Police Station, Erode District. Hence, the cheque in the issue is not issued for any debt or liability towards the respondent. The petitioner does not dispute the signature in the cheque. Further, the petitioner had not produced any valid documents to show that the cheque in issue was issued only to one Mahendran @ Thambu and the liability towards him stands discharged. In such circumstances, the contention of the petitioner is without any substance and cannot be countenanced.

8. Since the trial has been pending from the year 2010, taking into consideration of the long delay in pendency of the above case, the Trial Court is directed to conclude the trial within a period of three months from the date of receipt of the copy of this order.

9.In view of the above, the Criminal Original Petition stands dismissed. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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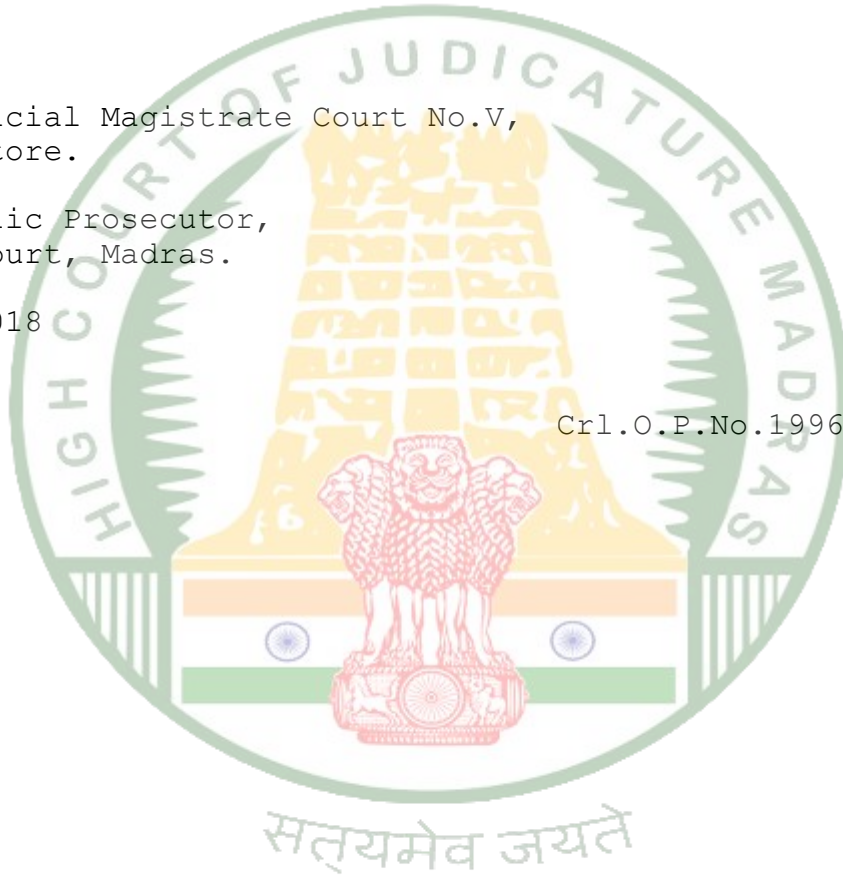
To

1.The Judicial Magistrate Court No.V,
Coimbatore.

2.The Public Prosecutor,
High Court, Madras.

sm:26.7.2018

Cr1.O.P.No.19962 of 2010



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