



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2018

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.5353 of 2014

&

M.P.(MD)Nos.1 & 2 of 2014 and Crl.M.P.(MD)No.2289 of 2016
and

Crl.O.P.(MD)No.5354 of 2014

&

M.P.(MD)Nos.1 & 2 of 2014 and Crl.M.P.(MD)No.2288 of 2016

R.Alexander ... Petitioner in both the Crl.O.Ps.
/Accused

Versus.

V.N.Murugan ... Respondent in both the Crl.O.Ps.
/Complainant

Prayer in both the Crl.O.Ps.: Criminal Original Petitions are filed under Section 482 of the Code of Criminal Procedure, to call for the records in S.T.C.No.57 of 2014 and S.T.C.No.1269 of 2013, on the file of the Judicial Magistrate Court No.I [FTC at JM Level], Madurai, and quash the same.

For Petitioner : Mr.V.Pandi
(in both the Crl.O.Ps.) for Mr.K.K.Senthil

For Respondent : Mr.P.T.Ramesh Raja
(in both the Crl.O.Ps.)

COMMON ORDER

These Criminal Original Petitions have been filed seeking to quash the proceedings in S.T.C.No.57 of 2014 and S.T.C.No.1269 of 2013, on the file of the Judicial Magistrate Court No.I [FTC at JM Level], Madurai.

2.As the petitioner and the respondent in both the cases are one and the same and the issue involved in both the Criminal Original Petitions are similar, both the cases are heard together and disposed of by way of this common order.

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3.The petitioner is the accused and the respondent is the



complainant in both the cases and therefore, for the sake of clarity, they are referred to as per their rank in the complaint.

4. The case of the complainant is that the accused and the complainant are friends. The accused used to borrow money from the complainant as hand loan for his business improvement. After receiving loans, the accused was not loyal in returning the amounts to the complainant and therefore, the complainant stopped rendering his financial assistance to the accused and demanded to return the outstanding amounts. After several pressurization, the accused had issued the following two post-dated cheques in favour of the complainant:-

1. Cheque No.529480, dated 30.11.2013, for Rs.50,000/- drawn on Syndicate Bank, Palace Road Branch, Madurai.

2. Cheque No.529479, dated 30.09.2013, for Rs.2,50,000/- drawn on Syndicate Bank, Palace Road Branch, Madurai.

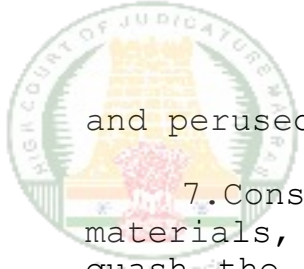
Thereafter, as per the request made by the accused, the complainant had deposited the said cheques with Indian Bank, Vilakkuthoon Branch, Madurai, on 30.11.2013 and 30.09.2013 respectively. Subsequently, the said cheques were returned by the Bank to the complainant on 04.12.2013 and 01.10.2013 with an endorsement 'payment stopped by drawer' and 'funds insufficient' respectively. Therefore, the complainant issued legal notices dated 18.12.2013 and 08.10.2013 respectively, calling upon the accused to pay the cheque amounts. The accused had received the said notices on 19.12.2013 and 09.10.2013 and thereafter, neither he had made any payment to the complainant nor sent any reply to the same. Hence, the complainant had preferred the complaints against the accused before the Court below.

4. The contention of the learned counsel for the petitioner/accused before this Court is that the complainant and two others have cheated the petitioner/accused by creating fictitious documents and sold properties to him, for which, he had lodged a complaint in Crime No.50 of 2014 before D2-Perungudi Police Station, Chennai, for the offences punishable under Sections 406, 420 and 506 (i) IPC and the same is pending. In order to wreak vengeance against the complaint lodged by the petitioner/accused, the respondent/complainant had filed the present complaints against the petitioner/accused for the offence under Section 138 of the Negotiable Instruments Act. He further contended that the cheques were given by the petitioner/accused towards commission charges in respect of the purchase of properties by him and the same have been utilized by the respondent/complainant for preferring the complaints under the Negotiable Instruments Act. He also contended that the respondent/complainant had cheated the petitioner/accused and the said cheques were not given in discharge of any liability.

5. The learned counsel for the respondent/complainant reiterated the averments made in the complaint and prayed for dismissal of the Criminal Original Petitions.

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6. I have heard the learned counsel appearing for the parties



and perused the materials available on record.

7. Considering the abovesaid submissions and perusal of the materials, this Court finds that there is no ground made out to quash the proceedings in S.T.C.No.57 of 2014 and S.T.C.No.1269 of 2013, pending on the file of the Judicial Magistrate Court No.I [FTC at JM Level], Madurai. The grounds raised by the petitioner have to be raised during trial. The Criminal Original Petitions are dismissed. Consequently, connected Miscellaneous Petitions are closed. Since the complaints are pending from the year 2014 and 2013 respectively, the learned Judicial Magistrate No.I [FTC at JM Level], Madurai, is directed to complete the trial within a period of four months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-II)

To

The Judicial Magistrate No.I [FTC at JM Level],
Madurai.

- 1 CC TO Mr.K.SATHISHKUMAR , ADVOCATE IN SR No. 97490.
- + 1 CC TO Mr.K.K.SENTHIL , ADVOCATE IN SR No. 97421.
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- DS SKN SAR2 21 12 2018 3P 4C

Common order in
Crl.O.P.(MD)Nos.5353 & 5354 of 2014

27.11.2018