



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 06.03.2018

PRONOUNCED ON : 19.03.2018

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

CrI.O.P.(MD)No.13725 of 2013

and

MP(MD)Nos. 1 and 2 of 2013

V.Velan ...Petitioner/Accused.

Vs.

S.Rasumani ...Respondent/Complainant.

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the complaint in S.T.C.No.144 of 2012 on the file of learned Fast Track Court (Magistrate level) No.II, Madurai and quash the same as illegal.

For Petitioner : Mr.B.A.Muruganantham

For Respondent : Mr.K.Samidurai

O R D E R

The petitioner herein is the accused in S.T.C.No.144 of 2012 on the file of learned Fast Track Court (Magistrate level) No.II, Madurai. Based on the complaint given by the respondent the said case was registered for an offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

2.Now, the petitioner herein has preferred the present petition under Section 482 Cr.P.C., in which, he is seeking the relief to quash the above said case as illegal.

3. Now, on going through the case of the prosecution, it is seen that on receipt of a cheque issued by the petitioner, the respondent on 12.09.2008 presented the same before the Karur Vysya Bank, but the said cheque was returned by the Bank by mentioning as "Invalid Account Number". Therefore, on 19.09.2008, the respondent herein sent a statutory notice to the petitioner, in which, he requested the petitioner to pay the entire cheque amount, but, the said notice was returned with an endorsement "Unclaimed". Aggrieved ~~by the same, a~~ complaint has been instituted by the respondent and the same was taken on file as S.T.C.No.144 of 2012 by the learned Magistrate No.II, Madurai.



4.The learned counsel appearing for the petitioner submitted that as per the agreement arrived at between the petitioner and the respondent, the petitioner is liable to pay only a sum of Rs.20,000/- by way of a cheque, but, the respondent presented the cheque for an amount of Rs.50,000/-. Further, the return of the cheque with an endorsement "Invalid Account Number" is a mistake committed by the Bank Authorities.

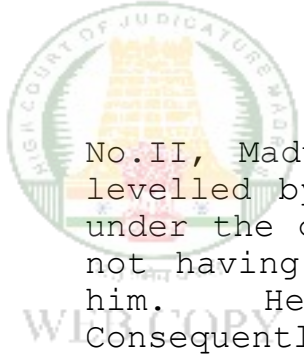
5.On the other hand, refusing the claim made by the petitioner, the counsel appearing for the respondent made a submission as it is true that there is an agreement executed between the petitioner and the respondent on 19.02.2017. Further, as per the terms of the agreement, the petitioner did not pay any amount. Only, after deciding entire issue the petitioner issued a cheque for Rs.50,000/- then only the respondent presented the same for collection. Therefore, he prayed for dismissal of this Criminal Original Petition.

6.Considering the aforesaid submissions it appears that in order to decide the issue involved in this case, we have to decide whether the agreement now hold by the petitioner is genuine and valid. Further, it has to be identified whether the reason stated by the bank authorities is true or not. No doubt, for the above queries, the answer will be available only at the time of trial. Particularly, by way of cross-examination of the respondent and the authorities, who are responsible for the return of the cheque.

7.In this connection, it is relevant to refer the judgment in Ajay Kumar Das Vs. State of Jharkhand and another reported in 2011 (12) SCC 319, the Hon'ble Apex Court has held as follows:

'15. allegations will have to be dealt with by the court at different stages for which liberty would be available to the appellant. In our considered opinion, this is not the stage when the court would make an inquiry into the factual position to find out as to whether or not the appellant is guilty of the charges or not. The appellant, in our considered opinion, will have sufficient opportunity to place his entire case before the Court at the time of framing of the charge since charge-sheet had already been filed against the appellant also holding that a case under Section 304-B and Section 34 is made out. We do not wish to enter into the factual details for any discussion on them at this stage as the same may prejudicially affect the case of the appellant.'

<https://hcservices.courts.gov.in/hcservices/>
8. If the petitioner is aggrieved against the allegations levelled by the respondent, he is having liberty to place the materials before the learned Fast Track Court (Magistrate level)



No.II, Madurai, at the time of trial. Since all the allegations levelled by the respondent are based on the question of fact, not under the question of law, this petition filed by the petitioner is not having any valid ground for quashing the case pending against him. Hence, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

The Fast Track Court (Magistrate level) No.II,
Madurai.

+1CC to Mr.K.Samidurai, Advocate, SR.No. 56167

Cr1.O.P.(MD)No.13725 of 2013
19.03.2018

Ls

AM/GT/SAR 4/02.04.2018/2P/3C