BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.O.P.(MD).No.23210 of 2013
and
M.P(MD).Nos.1 and 2 of 2013

R.R.Bhuvanesh ... Petitioner/Accused

Vs.

Rajaa ... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records in respect of S.T.C.No.1282 of 2012 on the file of the learned Judicial Magistrate, Fast Track Court II at Madurai and quash the same.

For Petitioner : M/s.S.Jainab Beevi for
Mr.M.Vivekanandan

O R D E R

This petition has been filed to call for the records in respect of S.T.C.No.1282 of 2012 on the file of the learned Judicial Magistrate, Fast Track Court II at Madurai and quash the same.

2.The petitioner herein is the accused in S.T.C.No.1282 of 2012 on the file of the learned Judicial Magistrate, Fast Tract Court No.II, Madurai. He filed this application to quash the above mentioned case as illegal.

3.Now, on going through the facts of the case, it appears that the petitioner herein has availed a loan of Rs.7,00,000/- from the complainant on 20.05.2012, for which, he had issued the post dated cheque i.e dated on 17.07.2012 in favour of the complainant in the name of the petitioner concern M/s.NIAGARA Rubber Technology Private Ltd., Thereafter, as requested by the petitioner/accused on 06.10.2012, respondent/complainant presented the above cheque for collection, but the same was returned for the reason "Account Closed". The intimation of dishonour of cheque was informed by the Indian Bank, Kumbakonam Bazaar Branch on 06.10.2012 itself. After receiving the intimation of dishonoured cheque, the respondent/complainant sent a legal notice, dated 19.10.2012, in which, he requested the petitioner/accused to pay the cheque amount within 15 days from the date of receiving the said notice. After sending the legal notice, due to the refusal made by the petitioner/accused, the said notice was returned on 01.11.2012. Thereafter, this case has been lodged by the respondent/complainant.

4.The first and foremost contention raised by the learned counsel appearing for the petitioner is that previous to the alleged occurrence, one Mrs.Seema had joined to work as the General Manager in the Company run by the petitioner/accused. Thereafter, she had left her job suddenly and absconded with numerous blank signed cheques and secret documents of the company. Subsequently, the said Seema had given such stolen cheques to her husband, namely, Shyam@Manikandan, who is doing business under the name and style of R.S.Computers, in partnership with Rajaa. In order to substantiate the above said allegations, the petitioner had not shown any document to accept the contention that the husband of the Seema and the present respondent are the partners of R.S.Computers. Moreover he fairly admitted that no complaint was lodged before the appropriate authority for receiving the cheque from the company of the petitioner herein. Eventhough the alleged theft was committed by one Seema, it has to be decided only at the time of trial only. So, this Court is of the view that the petitioner is having the right to put forth his claim, at the time of trial only and not by way of filing this application. Apart from that the petitioner has not indicated anything with regard to the abuse of process of law in filing the case by the respondent herein. Eventhough the respondent herein is a third party to the petitioner, that aspect also has to be verified only at the time of trial.

5.Therefore, for the reasons stated above, this Court is not inclined to entertain this petition. The criminal original petition is liable to be dismissed and the same is accordingly, dismissed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

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

MSA
TE/SKN-RSK/SAR-1 : 13/04/2018 : 2P/2C

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