

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2019

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.24836 of 2012 and
Crl.M.P.Nos.1 & 2 of 2012

T.Vinoth Kumar

... Petitioner

Versus

Munusamy

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the case of the complainant against the petitioner in C.C.No.803 of 2011 on the file of the learned Judicial Magistrate, Fast Track Court, Vellore and quash the same.

For Petitioner : M/s.P.Rajkumar

For Respondents: M/s.K.S.Rajagopalan

ORDER

The Criminal Original Petition has been filed to quash the proceedings in C.C.No.803 of 2011, pending on the file of the Judicial Magistrate, Fast Track Court, Vellore.

2.The gist of the case is that the petitioner was engaged in the business of selling and purchasing the plots and he knew the respondent. The respondent and his brother one Palani gave the General Power of Attorney to sell their lands measuring about 77 cents, situated at Aranthalai Village, Walajah, Vellore to the petitioner. As per the General Power of Attorney, the petitioner will have to sell the plots and pay the sale price and rendering amounts. After selling the plots, receiving extra sale price than stated in the sale deeds, the petitioner failed to pay actual amount due to the respondent. On insisting to return the amount, the petitioner issued a cheque bearing No.357387 dated 29.07.2011 for a sum of Rs.19,00,000/- (Rupees nineteen thousand only) drawn on his

bank viz., HDFC Bank, Krishna Nagar Branch, Vellore, towards the payable amount of the respondent. When the respondent presented the said cheques through his Bank viz., Karnataka Bank, Vellore on 01.08.2011, the said cheque was returned for the reason that "Insufficient Funds". Therefore statutory notice has been issued to the petitioner on 28.10.2011. On receipt of the same the petitioner has sent reply notice dated 17.11.2011 by denying his liability. Hence, the respondent lodged a private complaint before the learned Judicial Magistrate, Fast Track Court, Salem in C.C.No.803 of 2011. Against which the present Criminal Original Petition.

3.The learned counsel for the petitioner would submit that the petitioner and the respondent were into the real estate business. During the course of the business, the petitioner entrusted signed blank cheque in favour of the respondent without filling up the date and bearer of the cheque. According to the petitioner the signed blank cheque has been misused by the respondent by filling up huge sums of money, which the petitioner is not liable to pay the said amount and by using some other persons the respondent raised claim against the petitioner. Due to which several complaints have been filed against him. In one such complaint the petitioner has filed quash petition in CrI.O.P.No.23573 of 2010, in which cheque in question in this case has been mentioned by him.

4.The learned counsel for the respondent would submit that in this case the signature of the petitioner has not been disputed. In course of business transaction between them, the petitioner handed over the said cheques and he is due to pay the amount mentioned in it. He would further submit that once a cheque has been signed and issued in favour of the holder, there is statutory presumption that it is issued in discharge of a legally enforceable debt or liability. The other points raised by the learned counsel for the petitioner have to decide only during the trial. Further other than the denial, there are no other materials produced by the learned counsel for the petitioner and prayed for dismissal of this petition.

5.Considering the rival submissions and on perusal of the materials this Court finds that, the points raised by the petitioner are factual in nature and only the trial Court which has to consider the same in the course of proceedings on its own merits and in accordance with law. This Court does not want to interfere with the proceedings at this stage and it is left open to the petitioner to raise all the contentions before the Court below in the course of trial.

6.Since the cases are pending from the year 2011 without any progress for the past eight years, the trial Court is directed to complete the trial in C.C.No.803 of 2011 within a

period of three months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

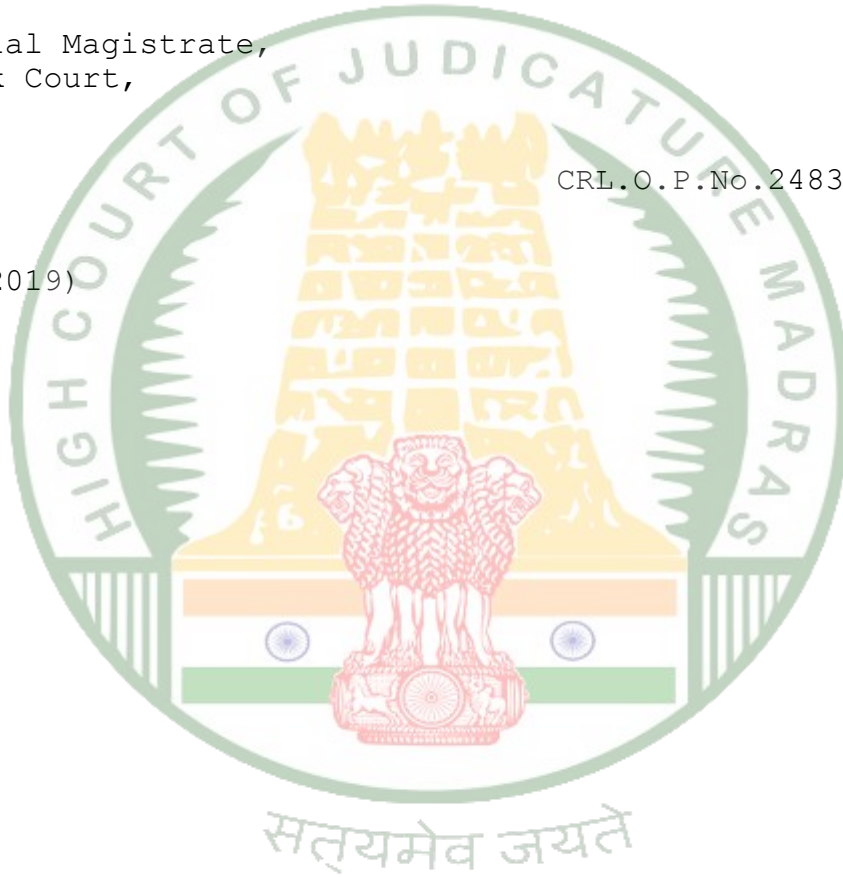
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To

The Judicial Magistrate,
Fast Track Court,
Vellore.

CRL.O.P.No.24836 of 2012

SPD (CO)
CB (13/11/2019)



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