

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.24845 of 2012 and
Crl.M.P.Nos.1 & 2 of 2012

T.Vinoth Kumar

... Petitioner

Versus

R.Babu @ Baburajan

... 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.811 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.811 of 2011, pending on the file of the Judicial Magistrate, Fast Track Court, Vellore.

2.The gist of the case is that the complainant was dealing in purchase of lands, developing layouts and plotting the same for selling. The petitioner, who was initially residing at Vellore had known to the respondent and he claimed to be a real estate agent. For purchasing the lands the petitioner borrowed a sum of Rs.32,50,000/- (Rupees thirty two lakhs fifty thousand only) for which Memorandum of Understanding has been entered. Thereafter, the petitioner failed to find out the rightful lands and the respondent gave 18 months time for repayment of the entire amount. On insisting to return the amount, the petitioner issued two cheques in favour of the respondent bearing No.357381 dated 23.07.2011 for Rs.15,00,000/- and another cheque bearing No.357391 dated 28.07.2011 for Rs.17,50,000/- totalling to Rs.32,50,000/-. When the respondent presented the said cheques for repayment through Federal Bank Ltd., Vellore and the same were returned for the reason "Insufficient funds". Therefore statutory notice has been issued to the petitioner on 02.11.2011. On receipt of the same the petitioner has sent reply notice dated 17.11.2011, by ignoring the transactions

between them. Hence, the respondent lodged a private complaint before the learned Judicial Magistrate, Fast Track Court, Salem. 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 two signed blank cheques to the respondent without filling up the date and bearer of the cheque. According to the petitioner these signed blank cheques have been misused by the respondent by filling up huge sums of money, which the petitioner is not liable to pay 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.24845 of 2012

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



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