

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2019

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.27261 of 2013

and

M.P.Nos.1 & 2 of 2013

S.Nagarajan

... Petitioner/Accused

Vs.

Mrs.Shanthi Parameshwaran

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the proceedings against in C.C.No.3736 of 2013 pending trial on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioner : No appearance

For Respondent : Mr.P.Suresh

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O R D E R

Criminal Original Petition filed to call for the records pertaining to the proceedings against the petitioner in C.C.No.3736 of 2013 pending trial on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai and quash the same.

2.The petitioner is an accused in the 138 case filed by the respondent, which is pending trial in C.C.No.3736 of 2013 before the XVIII Metropolitan Magistrate Court, Saidapet, Chennai and the same was transferred to the Metropolitan Magistrate Fast Track Court No.III, Saidapet, Chennai.

3.The case is that the petitioner and the respondent were employed in AGS Office. The respondent who had joined the AGS office in the year 1985, was placed with the petitioner, who was a senior officer and the respondent was taking guidance from him. The petitioner had stated that he is having some lands in Orapakkam Village and he would sell the same to the respondent. For which the respondent had paid a sum of Rs.75,000/- during

1995 to the petitioner. The petitioner did not register the land till 2000. Once again in the year 2002, the petitioner asked the respondent to pay a sum of Rs.4,50,000/- and agreed to register 2½ grounds of land in the above said village. Even after paying the amount by cash, the petitioner did not execute the sale deed in favour of the respondent. Thereafter in the year 2002 he had demanded another sum of Rs.1,50,000/- and promised that he would register the 2½ grounds of land in her favour. The respondent had no money, then the petitioner asked her to handover 40 sovereigns of gold jewels and promised to register 2½ grounds of land in her favour. Having no other alternative, the respondent handed over 40 sovereigns of gold jewels to the petitioner. Even thereafter the petitioner did not register the land in favour of the respondent. After repeated requests the respondent agreed to pay Rs.23,00,000/-. In discharge of the amount, the petitioner had issued an undated filled up cheque bearing No.262026 for a sum of Rs.23,00,000/- drawn on Indian Overseas Bank, Teynampet Branch, Chennai and authorized the respondent to fill up the date. He had also given an undertaking detailing the transactions.

4.The respondent presented the cheque for collection on 12.09.2012 with her bankers M/s.Corporation Bank, Teynampet Branch, Chennai. On 13.09.2012, the cheque was returned with an endorsement "Kindly contact Drawer Drawee Bank and please present again". The respondent could not find the reason and again presented the cheque for collection on 16.11.2012 and the same was returned on 17.11.2012 for the reason "Account Closed". Statutory notice was issued on 28.11.2012 and notice received on 04.12.2012. Reply on behalf of the petitioner was given by his wife is that her husband was suffering from Parkinsons Plus and other health ailments and hence, from the year 2010, he is not in a position to sign any documents. When, the respondent came to know that the reply given by the wife of the petitioner is false which was a created defence, she filed the above said complaint.

5.The learned counsel appearing for the respondent submits that it is an admitted fact that both of them were working together at AGS office and the respondent was making payments to the petitioner for the land at Orapakkam Village. Thereafter on the intervention of other office colleagues the dispute between the petitioner and the respondent was resolved. Thereafter, when the petitioner was contemplating to submit his resignation, the respondent objected and asked for the money. Hence, she did not make complaint to the higher officials. The petitioner and the respondent entered into a Memorandum of Understanding narrating the entire facts and the petitioner signed the same.

6.The respondent on informing the petitioner filled up the date and presented the cheque. The defence now created by the

petitioner is untenable. In fact he had resigned from the AGS office, signed the letter and now making a claim that he had not signed the cheque is to usurp the hard earned money of the respondent.

7.The petitioner admits the signature and as per section 20 of the Negotiable Instruments Act, once a person signs and delivers to another a paper stamped in accordance with the law relating to negotiable instruments then in force in 1[India], and either wholly blank or having written thereon an incomplete negotiable instrument, he thereby gives prima facie authority to the holder thereof to make or complete, as the case may be, upon it a negotiable instrument, for any amount specified therein and not exceeding the amount covered by the stamp. The person so signing shall be liable upon such instrument, in the capacity in which he signed the same, to any holder in due course for such amount; provided that no person other than a holder in due course shall recover from the person delivering the instrument anything in excess of the amount intended by him to be paid thereunder. Hence the presumption is the signed cheque given by the petitioner is for discharge of his liability.

8.On perusal of the materials and the submissions made by the respondent, this Court finds that there is no merit on the grounds raised by the petitioner.

9.The Criminal Original Petition stands dismissed. Taking into consideration that the above case is not proposed for past six years. The trial Court is directed to complete the trial and dispose of the C.C.No.3736 of 2013, as expeditiously as possible, 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(J)

//True Copy//

Sub Assistant Registrar

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To

The XVIII Metropolitan Magistrate,
Saidapet, Chennai.

+1cc to Mr.P.Suresh, Advocate, S.R.No.48852

Cr1.O.P.No.27261 of 2013

RRS (29/08/2019)