

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 05.02.2019
CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.2891 of 2019
and CRL.M.P.Nos.1901 & 1902 of 2019

Dayalan

... Petitioner

Vs.

N.Govindaraj

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records in C.C.No.1 of 2019 on the file of the Hon'ble Judicial Magistrate, Sholinghur and quash the same.

For Petitioner : Mr.M.Narayanasaamy
For Respondent : ----

O R D E R

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.1 of 2019, on the file of the learned Judicial Magistrate, Sholinghur.

2.It is alleged that the petitioner herein has borrowed a sum of Rs.1,00,000/- from the defacto complainant on 20.09.2018 and issued a cheque dated 29.10.2018 for the same. When the defacto complainant presented the cheque for payment, the cheque was dishonored for the reason "Funds insufficient". Hence, the respondent/defacto complainant filed a complaint before the learned Judicial Magistrate, Sholinghur, to take action against the petitioner under Section 138 of N.I.Act. Hence, the petitioner is before this Court seeking to quash the proceedings in C.C.No.1 of 2019.

3.The learned counsel for the petitioner submitted that, the cheque was issued only for security purpose and that there was no legally enforceable debt by the petitioner to the defacto complainant. Therefore, he sought to quash the private complaint filed in C.C.No.1 of 2019, for the offence under Section 138 of N.I.Act.

4.The only ground raised is, the cheque issued by the respondent/defacto complainant only for the security purpose and that there is no legally enforceable debt to the defacto complainant payable by the petitioner. The petitioner can raise all these grounds before the trial Court during the time of trial and the trial Court can entertain this ground to establish whether the cheque was issued only for the purpose of security and there is no legally enforceable debt.

5.Therefore, this Court does not find any merits to quash the proceedings in C.C.No.1 of 2019, on the file of the learned Judicial Magistrate, Sholinghur.

5.However, considering the age of the petitioner, the personal appearance of the petitioner is dispensed with and he shall be represented by a counsel after filing appropriate application. The petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment.

6.Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The Judicial Magistrate,
Sholinghur.

+1cc to Mr.A.Tamilvanan, Advocate, S.R.No.9936

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AK(CO)
GSP(06/03/2019)