

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2019

CORAM:

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

CRL.O.P.No.6076 of 2019
and CRL.M.P.No.3388 of 2019

M.S.Leslyloyans, ... Petitioner/Accused

Vs.

A.Amalorpavam, ...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records in C.C.No.9445 of 2017 on the file of the Fast Track-II, Metropolitan Magistrate, Egmore (Allikulam) and to quash the same.

For Petitioner : Mr.D.Padmanabhan

For Respondent : ----

O R D E R

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.9445 of 2017, on the file of the learned Metropolitan Magistrate, Fast Track-II, Egmore (Allikulam).

2.It is alleged that the petitioner herein has borrowed a sum of Rs.15,00,000/- on various dates from the defacto complainant and issued a cheque dated 02.08.2017 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 Metropolitan Magistrate, FTC-II at Egmore, Chennai, 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.9445 of 2017.

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.9445 of 2017, for the offence under Section 138 of N.I.Act.

4.The only ground raised is, the cheque issued by the respondent/defacto complainant is 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.9445 of 2019, on the file of the learned Metropolitan Magistrate, FTC-II at Egmore, Chennai.

6.Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are also closed. However, the learned Metropolitan Magistrate, Egmore, is directed to complete the trial within a period of six months from the date of receipt of copy of this order.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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To

- 1.The Metropolitan Magistrate,
Fast Track Court-II,
Egmore (Allikulam).
2. The Public Prosecutor,
High Court, Madras.

सत्यमेव जयते

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CA(CO)
SP(12/04/2019)

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