

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 04.04.2019
CORAM:
THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN
Crl.O.P.No.13743 of 2014
and
Crl.M.P.No.1 of 2014

T.Nagendran

... Petitioner

Vs.

A.Palanivel

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records and quash the proceedings initiated by the learned Judicial Magistrate FTC II, Coimbatore in C.C.No.97 of 2014.

For Petitioner : Mr.T.Annamalai

For Respondent : No Appearance

O R D E R

This petition has been filed to quash the proceedings in C.C.No.97 of 2014 on the file of the Judicial Magistrate FTC II, Coimbatore.

2.It is seen that the petitioner is accused. The respondent initiated proceedings for the offence punishable under Section 138 & 142 of The Negotiable Instruments Act, on the allegation that the petitioner borrowed a sum of Rs.55,000/- from the respondent on 06.08.2013. To re-pay the said amount, the petitioner issued two cheques for a sum of Rs.30,000/- and Rs.25,000/- dated 07.10.2013, bearing cheque Nos.532511 and 013928 respectively. Both the cheques were presented for collection and the same were returned dishonoured with an endorsement as "Funds Insufficient". After issuing statutory notice, he initiated impugned proceedings.

3.On perusal of the records, it shows that the petitioner sent a letter dated 21.04.2013, to the respondent stating that the petitioner and respondent were partners in real estate business, due to misunderstanding between them they stopped their business. While being so, the respondent have taken away the signed cheques from the petitioners and also pro note and stamp papers from the petitioner in the said letter. The petitioner specifically mentioned the alleged impugned cheques

namely 013928, 532511, 532542, 532485, 625017 and 625018, it was duly received by the wife of the respondent. Thereafter, the matter has been settled between the petitioner and respondent by letter dated 21.06.2013. Even then the respondent presented the above mentioned cheques for collection, after returning the same, he initiated the above proceedings as against the petitioner.

4. In fact, it is also seen from the reply notice dated 06.11.2013, the petitioner specifically averred and denied the fact that there is no borrowal in between the petitioner and respondent and the money dispute between them has settled by a letter dated 21.06.2013. Therefore, even after the receipt of the reply notice, the respondent initiated the proceedings, it cannot be sustained as against the petitioner and it is clear abuse of process of law.

5. Accordingly, the criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

AT

To

The Judicial Magistrate FTC II,
Coimbatore

Crl.O.P.No.13743 of 2014
and Crl.M.P.No.1 of 2014

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