

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2019

CORAM:

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

CRL.OP.No.2404 of 2017

and CRL.M.P.No.1708 of 2017

R.S.Jagan

... Petitioner

Vs.

M.S.Ganesh

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records relating to the order passed in Crl.M.P.No.204 of 2017 in C.C.No.914 of 2010 dated 10.01.2017 on the file of I-Fast Track Court Metropolitan Magistrate Court Egmore at Allikulam, Chennai and set aside the same.

For Petitioner : No appearance

For Respondent : No appearance

O R D E R

The Criminal Original Petition has been filed to set-aside the order dated 10.01.2017, passed in Crl.M.P.No.204 of 2017 in C.C.No.914 of 2010, on the file of the Metropolitan Magistrate Fast Track Court-I, Egmore at Allikulam, Chennai-3.

2. There is no representation on the side of the petitioner as well as the respondent.

3. It is seen from the records that the petitioner herein and along with his wife and accused 1 & 2 in C.C.No.914 of 2010, had jointly borrowed a sum of Rs.50,00,000/- by executing two promissory notes dated 21.07.2006 and 27.08.2006 for Rs.20,00,000/- and Rs.30,00,000/- respectively. The Accused 1 & 2 therein had agreed to pay interest at a rate of 6% per annum on the above said sums till the date of repayment. In spite of several request and demands made by the complainant/respondent herein, the accused 1 & 2 therein never bothered to pay any sum towards the interest nor the above said principal sum borrowed. After an inordinate delay, the accused 1 & 2 therein paid a sum of Rs.2,50,000/- on 08.07.2009 as part payment towards the principal and interest in pronote dated 21.07.2006 and another sum of Rs.2,50,000/- on 08.07.2009 as part payment towards pronote dated 26.08.2006.

4. It is also seen from the records that the first accused therein on his own behalf and on behalf of the second accused therein issued a Cheque No.603090 dated 07.12.2009 drawn on Syndicate Bank, Mylapore Branch, Chennai-4, for a sum of

Rs.45,00,000/- in favour of the complainant/respondent herein towards the discharge of the aforesaid liability. The complainant/respondent herein accepted the above said cheque and presented the same for payment after due instructions from the accused 1 & 2 therein with his banker namely, Canara Bank, Kilpauk Branch, Chennai - 10, but the above said cheque was returned unpaid by the return memo dated 18.12.2009 for the reason "Funds Insufficient". The accused committed an offence under Section 138 of the Negotiable Instruments Act.

5.The order of the trial Court dated 10.01.2017 in Crl.M.P.No.204 of 2017 in C.C.No.914 of 2010, is extracted hereunder:

"Once application filed for recalling of PWs for cross examination is filed and subsequently closed or rejected by court. No successive applications u/s.311 Cr.P.C. filed can be filed before the same court. Hence, this application stands rejected."

6.In view of the above, this Court finds no infirmity or illegality in the order dated 10.01.2017, passed in Crl.M.P.No.204 of 2017 in C.C.No.914 of 2010, on the file of the Metropolitan Magistrate Fast Track Court-I, Egmore at Allikulam, Chennai-3. Therefore, this Court is not inclined to set aside the same.

7.With the above observation, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

pam

The Metropolitan Magistrate,
Fast Track Court-I,
Egmore at Allikulam,
Chennai-3.

CRL.OP.No.2404 of 2017
and CRL.M.P.No.1708 of 2017

nr 20/06/2019