



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.04.2019

CORAM:

**THE HONOURABLE MR.JUSTICE N.SESHASAYEE**

**Crl.O.P.[MD]No.4947 of 2019**

**and**

**Crl.M.P.(MD)Nos.3096 and 3097 of 2019**

WEB COPY

T.Annavu : Petitioner/Accused No.1

/Vs./

N.Chandran : Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records relating to the impugned criminal case dated 15.03.2017 in C.C.No.40 of 2017 on the file of the learned Judicial Magistrate (Fast Track Court at Magistrate Level), Thanjavur and quash the same as against the petitioner.

For Petitioner : Mr.V.Singan  
For Respondent : Mr.A.P.G.Ohm Chairma Prabhu  
Government Advocate (Crl.Side)

### ORDER

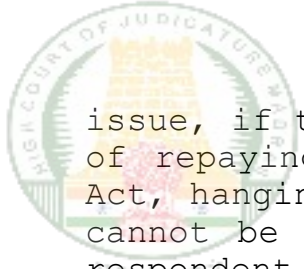
This petition has been filed to quash the private complaint filed under Section 138 of Negotiable Instruments act.

2. The complaint shows two persons as accused persons of which the petitioner herein is the first named accused.

3. The learned counsel for the respondent would submit that the second accused has moved this Court Crl.O.P.(MD)No.11270 of 2017 with a plea that she is not the drawer of the cheque involved in this case. Accepting the same, this Court Vide its order dated 26.10.2018, has quashed the complaint as concerning the second accused.

4. The learned counsel for the petitioner would now submit that in the money transaction, the borrower was actually the second accused and inasmuch as this Court has quashed the complaint as concerning second accused, the same benefit shall visit present petitioner as well.

5. This Court is not willing to buy the said theory of the learned counsel for the petitioner. The fact that the money was borrowed by a third party to the cheque is not to germane to the



issue, if the drawer of the cheque has undertaken the responsibility of repaying it and that Section 139 of the Negotiable Instruments Act, hanging over criminal liability now faces by the petitioner. It cannot be stated that the complaint now pending against the first respondent deserves to be quashed.

6. There is no merit in this petition. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD I)

// True Copy //

Sub Assistant Registrar(CS)

To

The Judicial Magistrate (Fast Track Court at Magistrate Level),  
Thanjavur

TA

KK/SAR/23.05.2019/ 2P- 2C

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**03.04.2019**