



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2019

CORAM

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.O.P. (MD)No.939 of 2016

and

Crl.M.P. (MD)Nos.458 and 1437 of 2016

WEB COPY

A.Bala Murugan ... Petitioner/Accused
Vs.

K.Selvam ... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to C.C.No.166 of 2015, on the file of Judicial Magistrate Court, Aruppukkottai, Virudhunagar District and quash the same.

For Petitioner : Mr.M.Kalamurugappan
For Respondent : Mr.G.Mariappan

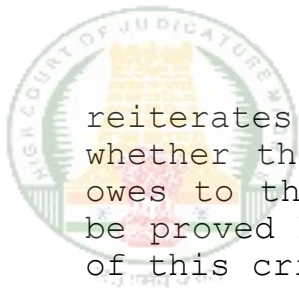
O R D E R

This petition is filed to quash the proceedings as against the petitioner in C.C.No.166 of 2015, pending on the file of the learned Judicial Magistrate, Aruppukkottai, Virudhunagar District.

2.The case in C.C.No.166 of 2015 was instituted at the instance of the respondent / complainant for the offence under Section 138 of the Negotiable Instruments Act. The case of the respondent is that the petitioner has availed a loan from him for a sum of Rs.1,00,000/-, in the year 2014 and in discharge to the said liability, the petitioner issued a cheque bearing No.001008, City Union Bank, Aruppukkottai Branch, dated 26.02.2015. According to the respondent, when the cheque was presented for collection, the same was dis-honoured as "Exceeds Arrangement". Thus, after issuing statutory notice, the respondent / complainant has filed the present petition.

3.The learned counsel for the petitioner, at the out set, would deny the issuance of cheque in question and would further submit that even according to the complaint, the respondent himself has filled up the cheque in question and presented for collection, which is not permissible under law. Therefore, the learned counsel for the petitioner prays for allowing the present criminal original petition.

4.Per contra, the learned counsel for the respondent
<https://hcservices.ecourts.gov.in/hcservices/>



reiterates the facts of the case and would further submit that whether the petitioner has issued the cheque or not and whether he owes to the respondent or not are matter for evidence which has to be proved before the trial Court and therefore, prays for dismissal of this criminal original petition.

WEB COPY

5.Heard the learned counsel appearing on either side and perused the documents placed on record.

6.The petitioner, in the grounds raised in this petition, has denied the issuance of the cheque in question to the respondent and has further taken a plea that the cheque itself was not filled by him. But, he has not denied the availing of loan from the respondent. Be that as it may, as rightly pointed out by the learned counsel for the respondent, the grounds raised herein are to be proved during the course of trial, by adducing evidence and this Court, under Section 482 Cr.P.C., is not inclined to entertain this petition at this stage.

7.In such a view of the matter, this Criminal Original Petition is disposed of, with liberty to the petitioner to raise all the grounds, that are raised in this petition, before the trial Court. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar(CS)

ias

To:

The Judicial Magistrate,
Aruppukkottai,
Virudhunagar District

+1 CC to M/s.G.MARIAPPAN, Advocate (SR-47792[F] dated 18/02/2019)

Crl.O.P. (MD) No.939 of 2016
15.02.2019

KK/SAR/16.10.2019/2P-3C/