



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 24.07.2019
CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CRL.O.P. (MD) .No.10442 of 2019
and
CrI.M.P. (MD) .No.6558 of 2019

K.Alagarsamy : Petitioner/Accused
Vs.

S.Sathishkumar : Respondent/Complainant

PRAYER: Petition is filed under Section 482 of Criminal Procedure Code to call for the records pertaining to S.T.C.No.44 of 2017, on the file of the Judicial Magistrate Court (Fast Track), Theni, Theni District and quash the same.

For Petitioner : Mr.R.Murugappan

ORDER

This Criminal Original Petition has been filed to quash a private complaint filed under Section 138 of the Negotiable Instruments Act. The petitioner is the accused in the above said case.

2.According to the complainant, the petitioner had borrowed a sum of Rs.3,00,000/- in the month of January 2017 and in order to repay the said amount, the petitioner has issued a cheque bearing No.000224 drawn in an account, maintained by him in Karur Vysya Bank Limited for a sum of Rs.3,00,000/-. When the same was presented for collection, the cheque was returned due to "Insufficiency of Funds". Thereafter, the complainant issued a demand notice on 20.02.2017 to the petitioner through Registered Post. But the petitioner / accused refused to receive the same and the notice has been returned. Hence, the respondent filed a complaint before the Judicial Magistrate Court (Fast Track), Theni, Theni District and the same was also taken cognizance by the learned Judicial Magistrate and now pending in S.T.C.No.44 of 2017. To quash the above said complaint, the present petition has been filed.

3.Mr.R.Murugappan, learned counsel appearing for the petitioner would submit that there is a material alteration in the cheque. The date and amount of the cheque has been altered by the complainant. That apart, the notice also not sent to the petitioner and he refused to receive the same. The petitioner has sought to quash the complaint merely on the above grounds.



4.I have heard the learned counsel appearing for the petitioner and also perused the records carefully.

5.If at all there is any material alteration in the cheque, the same has to be established only during the course of trial, after sending the cheque to an expert to find out whether there is any material alteration in the cheque and it cannot be decided in the quash petition. That apart, whether the notice has been sent to the petitioner to the correct address, and whether the petitioner refused to receive the same are all matter for trial and that issue also cannot be decided in this quash petition.

6.In the above circumstances, I find no merit in the quash petition and the same stands dismissed. However, if the petitioner has any grievance with regard to material alteration in the cheque, it is always open to prove the same during the course of trial. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Ad-II)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Judicial Magistrate Court (Fast Track),
Theni, Theni District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.R.MURUGAPPAN, Advocate SR-78018.

Order made in

CRL.O.P. (MD) .No.10442 of 2019

Dated:

24.07.2019

CS(30.08.2019) 2P 4C