



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P(MD)No.3520 of 2018

and

Crl.M.P(MD)Nos.1660 and 1661 of 2018

A.Arun

.. Petitioner/Accused

-Vs-

Selvakumar

.. Respondent/Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for records in connection with case in C.C.No.12 of 2018 on the file of the Judicial Magistrate No.I, Sivakasi and quash the same.

For Petitioner

: Mr.S.S.Muthurajan

For Respondent

: Mr.S.M.Anantha Murugan

ORDER

This Criminal Original Petition has been filed to quash the proceeding in C.C.No.12 of 2018 on the file of the learned Judicial Magistrate No.I, Sivakasi, initiated for the offence under Section 138 of Negotiable Instrument Act.

2.The case of the prosecution is that the petitioner is the owner of the Arun Sparklers. The respondent is a partner of the petitioner's firm. Due to business purpose, the petitioner received a sum of Rs.4,50,000/- from the respondent. In this regard, there was a dispute arose between them. Therefore, the respondent lodged a private complaint as against the petitioner.

3.The learned counsel for the petitioner would submit that the respondent cheated the petitioner by way of taking all the profits including the petitioner's share. In this regard, the petitioner questioning the said activities of the respondent, due to which, the respondent threatening the petitioner and taken away five unfilled cheque leaves by way of coercion. Suppressing all these facts, the respondent filed a case before the trial Court. He also submitted that the present proceeding is nothing but clear abuse of process of law. Therefore, he prayed for quashing the entire proceedings.

4.The learned counsel for the respondent would submit that the



petitioner is the owner of the Arun Sparklers. In such circumstances, he borrowed a sum of Rs.4,50,000/- from the respondent and in order to return the same, he issued five cheques to the respondent. The same were presented for collection in bank and the cheques were returned with an endorsement as 'Exceed Arrangement'. After issuing statutory notice, the proceedings under Section 138 of Negotiable Instruments Act initiated as against the petitioner.

5.Heard the learned counsel for the petitioner and the learned counsel for the respondent.

6.The petitioner is the sole accused in this case. He borrowed a sum of Rs.4,50,000/- from the respondent and issued cheques. The said cheques were presented for collection and the same were returned with an endorsement as 'exceed arrangement'.

7.This Court is of the view that the petitioner and the respondent were partners. According to the petitioner, the respondent cheated the petitioner and took all the profits including the share of the petitioner and taken away five unfilled cheques. This points are raised by the petitioner cannot be considered. The said issues can be considered only during the trial. This quash petition cannot be entertained by this Court. Accordingly, this Criminal Original Petition is dismissed. However, the petitioner is at liberty to raise all the points before the trial Court.

8.At this juncture, the learned counsel for the petitioner submitted that personal appearance of the petitioner before the Court below in C.C.No.12 of 2018 on the file of the learned Judicial Magistrate No.I, Sivakasi may be dispensed with.

9.Accepting the same, the personal appearance of the petitioner is dispensed with before the trial Court, except for furnishing copies, framing charges, questioning under Section 313 Cr.P.C and at the time of judgment. The learned Judicial Magistrate No.I, Sivakasi, is directed to complete the trial within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

das

<https://hcservices.ecourts.gov.in/hcservices/>



To
The Judicial Magistrate No.I, Sivakasi.

+1 CC to M/s.S.M.ANANTHA MURUGAN, Advocate (SR-87301[F] dated
18/09/2019)

Crl.O.P(MD)No.3520 of 2018

and

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