



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 20.09.2019

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P (MD) No.3686 of 2018
and
Crl.M.P.(MD) No.1777 of 2018

A.Murugesan

... Petitioner/Accused

Vs

N.Subbaiah

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records in S.T.C.No.455 of 2015 on the file of the Fast Track Court No.1 (Judicial Magistrate level), Madurai and quash the same as illegal and violation of law.

For Petitioner : Mr.M.Prabhu

For Respondent : Mr.Babu Rajendran

O R D E R

This petition has been filed to quash the proceedings in S.T.C.No.455 of 2015 on the file of the Fast Track Court No.1 (Judicial Magistrate level), Madurai.

2.The learned counsel appearing for the petitioner would submit that the petitioner is aged about 77 years and the entire transaction between the petitioner and the respondent is admittedly civil in nature. The petitioner is no way connected with the alleged offence under Section 138 of the Negotiable Instrument Act in order to wreck vengeance as against the petitioner, the present complaint has been filed by the respondent and after considering the facts and circumstances, the learned Judicial Magistrate has taken cognizance and as such, he prayed for quashment of the entire proceedings.

3.The learned counsel appearing for the respondent would submit that the petitioner borrowed a sum of Rs.6 lakhs and agreed to repay the same with interest at 12%. Towards repaying the same, he issued a cheque for a sum of Rs.6 lakhs and the same was presented for collection and it was dishonoured for the reason that insufficient funds. After issuance of statutory notice, the respondent initiated proceedings under Negotiable Instrument Act. He further submitted



that even after taking cognizance in S.T.C.No.455 of 2015, the petitioner never appeared before the trial Court and Non Bailable Warrant was also issued as against the petitioner and it is pending and now proclamation proceeding are pending against the petitioner and hence, he prayed for dismissal of this petition.

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4.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and perused the materials available on record.

5.The respondent is the complainant and he initiated proceedings under the Negotiable Instrument Act for the offence under Section 138 of the Negotiable Instrument Act as against the petitioner. The petitioner borrowed a sum of Rs.6 lakhs, for which, he issued a cheque to repay the same and when it was presented for collection, the same was dishonoured for the reason insufficient funds. After statutory notice, the respondent has preferred the complaint and the same has been taken cognizance by the learned Fast Track Court No.1 (Judicial Magistrate level), Madurai in S.T.C.No.455 of 2015 and issued summons to the petitioner.

6.It is also seen that the petitioner never appeared before the trial Court and the case is pending from the year 2015. There is absolutely no points raised by the petitioner to quash the proceedings and only to drag on the proceedings, the present petition has been filed. That apart, since the petitioner did not appear before the trial Court, Non Bailable warrant was issued against the petitioner and the same is also pending. Further, it is seen that the respondent now taking the proceedings for proclamation and the same is also pending as against the petitioner and hence, the petitioner is not entitled to any relief and this petition is devoid of merits and the same is liable to be dismissed.

7.Accordingly, this criminal original petition is dismissed. Consequently, connected miscellaneous petition is also dismissed. However, since the case is pending from the year 2015, the learned trial Judge is directed to complete the trial and dispose of the case, within a period of three months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

Arul



To
The Judge, Fast Track Court No.1
(Judicial Magistrate level),
Madurai.

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+1cc to Mr.M.Prabu,Advocate, SR.No. 88514 (F) dated 23/09/2019

+1cc to Mr.Babu Rajendran,Advocate, SR.No.88579 (F) dated 23/09/2019

Order made in
CRL.O.P (MD) No.3686 of 2018
20.09.2019

JMN(22.10.2019) 3P : 4C