



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 17.10.2019  
CORAM :

THE HONOURABLE MR. JUSTICE **G.K. ILANTHIRAIYAN**  
Crl.O.P.(MD)No.5481 of 2018  
and  
Crl.MP(MD).No.2635 of 2018

Navaneetham

... Petitioner/Petitioner

Vs.

Tamilselvi

... Respondent/Complainant

**Prayer:** Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the records pertaining to the case in S.T.C.No.73/2018 on the file of learned Judicial Magistrate Court No.I, Fast Track Court at Magistrate Level, Madurai and quash the same as illegal.

For Petitioner : Mr.A.Banumathi  
For Respondent : Mr.K.Neethimohan

**O R D E R**

This petition has been filed to quash the proceedings in S.T.C.No.73/2018 on the file of learned Judicial Magistrate Court No.I, Fast Track Court at Magistrate Level, Madurai.

2. The learned counsel for the petitioner would submit that the respondent lodged a complaint before the respondent police alleging that the petitioner borrowed a sum of Rs.3,50,000/- and he issued two cheques for repaying the amount and when the same were presented for collection, they were 'dis-honoured' for the reason of 'insufficient funds'. After issuance of notice, the petitioner initiated proceeding under Section 138 of the Negotiable Instruments Act. He further submitted that the petitioner lodged a complaint on 23.06.2017 as against the respondent for claiming exorbitant interest. On the basis of the complaint, the Inspector of Police, Thanjavur Police Station, registered a case in Crime No.1305/2017 as against the respondent for the offence under Sections 294 (b), 506 (I), IPC 3 and 4 of Tamilnadu Prohibition of Charge Ex-arbitration interest Act, 2003. The respondent was also arrested and remanded to judicial custody.

3. He further submitted that the occurrence was happened on 19.06.2017. The respondent harassed the petitioner with goondoss and hooligans and grabbed the pass-port of the petitioner. On the same day, the petitioner lodged a complaint before the Inspector of



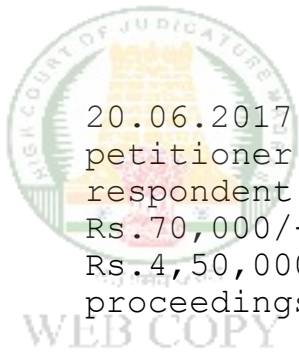
Police, Thanjavur Police Station. The Investigating Officer did not take any action on the complaint and as such, the petitioner filed a complaint before the Commissioner of Police, Madurai and the same was forwarded to the Inspector of Police, Tallakulam Police Station, and thereafter, the case was registered only on 23.06.2017. On 20.06.2017, the cheques were drawn and the same were presented for collection and proceedings were initiated as against the petitioner. Further, he submitted that in the reply notice on 28.07.2017, the petitioner categorically stated that the respondent committed offence and initiated proceedings under Section 138 of the Negotiable Instruments Act. Therefore, he prayed for allowing of this petition.

4. The learned counsel for the respondent filed a counter and memo on behalf of the respondent. In the counter, the respondent averred that on 03.03.2017, the petitioner borrowed a sum of Rs.3,,50,000/- and promised to return the amount within a period of 12 months. Thereafter, two cheques were issued to repay the said amount on 20.06.2017. Thereafter, the said cheques were presented for collection and it was returned for the reason of insufficient funds. Immediately, after causing statutory notice, the respondent initiated proceedings under Section 138 of the Negotiable Instruments Act. The points raised by the petitioner cannot be considered under Section 482 Cr.P.C., before the Trial Court. Therefore, he prayed for dismissal of the petition.

5. The respondent initiate the complaint under Section 138 of the Negotiable Instruments Act alleging that the petitioner borrowed a sum of Rs.3,50,000/- and promised to repay the said amount. On 20.06.2017, the petitioner issued two cheques in favour of the respondent and both the cheques were presented for collection on their banker viz., Canara Bank, P & T Nagar Branch, Madurai. The said cheques were returned for the reason of 'insufficient funds'. Further, causing notice under Section 138 of Negotiable Instruments Act and private complaint was lodged before the learned Judicial Magistrate (Fast Track No.I) Magisterial level, Madurai and the same has been taken cognizance in S.T.C.No.73 of 2018.

6. From the perusal of the records, it is seen that the petitioner lodged a complaint on 16.06.2017 alleging that he lodged a complaint before the Inspector of Police, Thallakulam, Madurai and that the respondent came to his house and collected his pass-port and also other documents. Unfortunately, the said complaint was not registered and on such, the petitioner has lodged a complaint before the Commissioner of Police and the same was forwarded to the Inspector of Police, Tallakulam Police Station, Madurai, and thereafter, the case was registered in Crime No.1305/2017 on 23.06.2017 for the offence under Sections 294 (b), 506 (i), IPC 3 and 4 of Tamilnadu Prohibition of Charge Ex-arbitration interest Act, 2003 as against the respondent herein.

<https://hccservices.courts.gov.in/tcrservices/>



20.06.2017 to the respondent herein. Further, the case of the petitioner is that the petitioner never borrowed any amount from the respondent as alleged by him. Initially he borrowed a sum of Rs.70,000/- from the respondent, for which, he paid more than Rs.4,50,000/- Only for exorbitant money, the respondent initiated proceedings under Section 138 of the Negotiable Instruments Act.

7. It is seen from the complaint of the petitioner reveals that the respondent claimed exorbitant interest and threatened him with dire consequence. Therefore, the complaint was lodged by the petitioner before the Inspector of Police, Thallakulam Police Station, Madurai. Thereafter, the case has been registered in Crime No.1305/2017 for the offence under Sections 294 (b), 506 (i), IPC 3 and 4 of Tamilnadu Prohibition of Charge Ex-arbitration interest Act. Only to escape from the clutches of law, the present proceeding has been initiated by the petitioner as against the respondent. It is nothing, but, clear abuse of process of law. Therefore, the petitioner is undergoing ordeal trial without committing any fault.

8. With the above observations, the complaint in S.T.C.No.73/2018 cannot be sustained as against the petitioner. In view of the above observations, the proceedings in S.T.C.No.73/2018 on the file of learned Judicial Magistrate Court No.I, Fast Track Court at Magistrate Level, Madurai is hereby set aside and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS )

dss

To

1 Judicial Magistrate Court No.I,  
Fast Track Court at Magistrate Level, Madurai.

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

+1 CC to M/s.A.BANUMATHY, Advocate SR-93038.

**Crl.O.P. (MD)No.5481 of 2018**

**and**

**Crl.MP(MD) .No.2635 of 2018**

**17.10.2019**

CS(14.11.2019) 3P 4C

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