



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE **V.BHARATHIDASAN**

Crl.O.P. (MD) No.8460 of 2014

and

M.P. (MD) .Nos.1 and 2 of 2014

R.Ganesamurthy

... Petitioner/Accused

Versus

K.Subbaiah

... Respondent/Petitioner

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code to quash the criminal proceedings in C.C.No.146 of 2013 on the file of the Judicial Magistrate, Aranthangi.

For Petitioner	:	Mr.K.Gokul
For Respondent	:	Mr.M.Suresh

O R D E R

The criminal original petition has been filed to quash the criminal proceedings initiated under Section 138 of the Negotiable Instruments Act in C.C.No.146 of 2013 on the file of the learned Judicial Magistrate, Aranthangi.

2. The complaint has been filed on the ground that the complainant has appointed the petitioner as a power agent and he was managing his family; during the course of transaction, the petitioner has to pay a sum of Rs.5,00,000/- to the complainant, for which he has issued a cheque on 03.02.2013, drawn on Indian Overseas Bank, Avanathankotai Branch; when the cheque was presented on 10.04.2013, before the State Bank of India, Aranthangi, the same was returned as 'Account Closed' thereafter, completing all the formalities, the present complaint has been filed. Now, to quash the same, the present petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the complaint has been filed on the ground that the petitioner has borrowed a money on 03.01.2013 and issued a cheque dated 03.02.2013. But in fact, the petitioner was in Malaysia from 08.06.2011 to 03.01.2013 and reached in India only on 05.01.2013 and on the date of alleged borrowal, the petitioner was not in



India. Hence, there is no occasion for the petitioner to borrow money on 03.01.2013 and to issue a cheque on 03.02.2013. That apart, the petitioner's cheque leaf has been misused by the complainant. Now, the petitioner has also filed the copy of Passport and Visa to substantiate his contention.

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4. I have heard the learned counsel on either side and perused the materials available on record.

5. It is the case of the petitioner that on the date of alleged borrowal, the petitioner was not in India and he is in abroad and he has also produced the copy of Passport and Visa to establish the same. But the above contention cannot be considered by this Court in a quash petition, and it is a matter for evidence. The petitioner can file all those documents before the trial Court and establish that there is no occasion for him to borrow the money on 03.01.2013 and that issue cannot be decided at this stage. In the above circumstances, I find no merit in the contention of the petitioner. Accordingly, the criminal original petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar (CS)

To
The Judicial Magistrate,
Aranthangi.

+1 CC to M/s.K.GOKUL, Advocate (SR-76973[F] dated 23/07/2019)

+1 CC to M/s.M.SURESH, Advocate (SR-77500[F] dated 25/07/2019)

Order made in
CrI.O.P. (MD) No.8460 of 2014

Dated: **23.07.2019**

_KM/ (03.10.2019) 2P 4C