



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2019

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

Crl OP(MD)No.1046 of 2015

and

MP (MD)No.1 of 2015

1.Srinivasan

2.Meenakshi Sundaram

... Petitioners / Accused 9 & 10

Vs.

K.Balakumar

... Respondent/Defacto Complainant

Prayer : Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records relating to the impugned private complaint in PRC No.85 of 2014 on the file of the Judicial Magistrate No.II, Madurai, quash the same insofar as the petitioners are concerned.

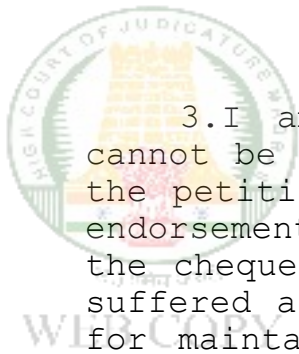
For Petitioners : Mr.C.Jegannathan

For Respondent : Mr.R.Venkateswaran

ORDER

The respondent herein has filed a private complaint before the Judicial Magistrate No.II, Madurai. The same was taken on file in PRC No.85 of 2014. To quash the same, this petition has been filed by A9 and A 10.

2.It is not in dispute that the petitioners herein were officials of Canara Bank, North Veli Street Branch, Madurai. The case of the respondent is that cheques were obtained from him under coercive circumstances by the first accused. A1 is said to have assured the respondent that he would keep the cheques given by the respondent under safe custody and that he will not hand over the same to one Vinoth Kannan. But, to the shock and surprise of the respondent, one of the cheques got presented and also encashed. The respondent gave stop payment instructions to the said Bank. As apprehended by the respondent, one of the cheques which were given to A1 Elangovan came to be presented. Instead of returning the said cheque with an endorsement that the respondent had issued stop payment instruction, the petitioners herein appear to have made some other endorsement.



3.I am of the view that for this reason,, the petitioners cannot be fastened with penal liability. The very implication of the petitioners is an abuse of legal process. Making an erroneous endorsement in the return memo will not attract any offence. If the cheque in question had got encashed, the respondent would have suffered a wrongful loss and, that could furnish a cause of action for maintaining the prosecution case. Admittedly, the cheque in questions were returned unpaid. Therefore, the question of fastening any penal liability on the petitioners herein will not arise.

4.In this view of the matter, the impugned prosecution stands quashed as far as the petitioners herein are concerned. This criminal original petition stands allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

Skm

To

The Judicial Magistrate No.II, Madurai.

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-88032[F] dated 20/09/2019)

+2 CC to M/s.R.VENKATESWARAN, Advocate (SR-89251[F] dated 25/09/2019)

CrI OP(MD)No.1046 of 2015

and

MP (MD) No.1 of 2015

19.09.2019

JM/11.10.2019/2P/5C