



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD)No.15985 of 2019

and

Crl.M.P.(MD)No.9487 & 9488 of 2019

R.Prasath

... Petitioner/Sole Accused

-Vs-

C.Jawahar

... Respondent/Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to proceedings in S.T.C.No.606 of 2019 on the file of the District Munsif cum Judicial Magistrate Court, Kodaikanal, Dindigul District and quash the same.

For Petitioner : Mr.R.Murugappan

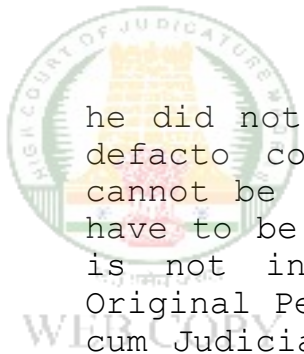
O R D E R

This Criminal Original Petition has been filed to quash the proceedings in S.T.C.No.606 of 2019, on the file of the learned District Munsif cum Judicial Magistrate, Kodaikanal, Dindigul District.

2. The learned counsel for the petitioner would submit that the alleged cheque presented by the respondent was already misplaced and as such he sent a representation to the Branch Manager, Bank of India, for blocking his aforesaid lost cheque for which, the concerned Branch Manager also acknowledged. He would further submit that the respondent is a stranger to him and he never had any money transaction with the respondent, misused the misplaced cheque and initiated action under Sections 138 and 142 of the Negotiable Instruments Act.

3. Heard the learned counsel for the petitioner and perused the materials available on record.

4. It is seen that the respondent lodged a complaint under Sections 138 and 142 of the Negotiable Instruments Act, that the petitioner borrowed a sum of Rs.7,00,000/- (Rupees Seven Lakhs only) and also promised to repay the said amount while repay the said amount by way of cheque when it has been presented for collection, the same was returned for the reason of "funds insufficient". After issuing statutory notice, he has initiated proceedings under Negotiable Instruments act. Further, it is seen that the petitioner has never given any police complaint for misplaced cheque. Further



he did not reply in the statutory notice issued by the respondent/defacto complainant. The points raised by the petitioner herein cannot be considered and all the points raised by the petitioners have to be considered only during the trial. Therefore, this Court is not inclined to allow the petition. Hence, this Criminal Original Petition is **dismissed**. However, the learned District Munsif cum Judicial Magistrate, Kodaikanal, Dindigul District, is directed to complete the entire trial proceedings in S.T.C.No.606 of 2019 within a period of nine months from the date of receipt of copy of this Order.

5.At this juncture, the learned Counsel for the petitioner submitted that the petitioner is working as a Teacher and hence, presence of the petitioner before the Trial Court may be dispensed with.

6.Accepting the said submission, the personal appearance of the petitioner before the Court below is dispensed with and he shall be represented by a counsel after filing appropriate application. The petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

Sub Assistant Registrar(CS)

Ls

To

1.The District Munsif cum Judicial Magistrate Court,
Kodaikanal, Dindigul District .

2.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.R.MURUGAPPAN, Advocate (SR-96569[F] dated 07/11/2019)

Crl.O.P. (MD)No.15985 of 2019
05.11.2019

MK (09.12.2019) 2P 5C