

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-01-2020

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Cr1.O.P.No.3724 of 2013
and
Cr1.M.P.Nos.1 & 2 of 2013

J.Narendra

... Petitioner

Vs.

T.Kanagaraj

.... Respondent

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for records and quash the complaint in C.C.No.63/2004 pending on the file of the Judicial Magistrate I, Udumalpet.

For Petitioner : Mr.S.Shankar

For 1st Respondent : No appearance.

O R D E R

The respondent has filed a private complaint under Section 200 of Cr.P.C., against the petitioner for the offence punishable under Section 138 of Negotiable Instruments Act, before the learned Judicial Magistrate No.I, Udumalmet. The learned Judicial Magistrate has taken cognizance of the complaint in C.C.No.63 of 2004 and sent summons to the petitioner herein. Aggrieved by the same, the petitioner has filed the present petition with the aforesaid prayer.

2.The learned counsel for the petitioner submitted that the respondent/complainant himself admitted that there is no direct transaction between the petitioner and the respondent. In the complaint itself, the respondent has stated that there was a transaction between M/s.B.V.V.Paper Industries and the respondent and therefore, when the petitioner/accused approached the respondent/complainant, for business transaction, the respondent has informed the petitioner that his agency only supplies raw materials and has business transaction only with M/s.B.V.V.Paper Industries. Therefore, the petitioner approached M/s.B.V.V.Paper Industries, who have agreed to supply goods to the petitioner

and directed to issue a cheque in favour of the respondent for a sum of Rs.1,80,000/- towards the supply of raw materials. Subsequently, the said order was cancelled by M/s.B.V.V.Paper Industries and the same was communicated to the petitioner/accused on 10.02.2003. He further submitted that in the complaint itself it is stated that, there is no transaction between the petitioner and the respondent. Subsequently, the respondent has not checked even after cancellation of the supply and had presented the cheque and issued notice to the petitioner to and he has also sent a reply to the same. Hence, there is no issue of legally enforceable debt or liability. Therefore, the complaint has to be quashed.

3.None appears on behalf of the respondent. Heard the learned counsel for the petitioner.

4.The petitioner has not disputed the issuance of cheque and also not disputed the transactions between M/s.B.V.V.Paper Industries and the petitioner and the business relationship between M/s.B.V.V.Paper Industries and the respondent. Though, the petitioner himself admitted that based on the direction issued by M/s.B.V.V.Paper Industries, he issued the cheque in favour of the respondent, subsequently, M/s.B.V.V.Paper Industries has sent a letter dated 10.02.2003 to the petitioner, informing that the order was cancelled and it was not brought to the notice of this Court, whether subsequent cancellation order was intimated to the respondent or not. Once execution of cheque is admitted, it is for the respondent to prove before the trial Court that the cheque was issued for a legally enforceable debt and the petitioner is liable to rebate presumption under Section 139 of Negotiable Instruments Act. Once execution of cheque is admitted, it is for the petitioner to defend the case before the trial Court. Therefore, this Court does not find any merit to quash the complaint in C.C.No.63 of 2004, by invoking Section 482 Cr.P.C.

5.Accordingly, the Criminal Original Petition is dismissed. However, the petitioner is at liberty to take all his defence before the trial Court.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To
The Judicial Magistrate I,
Udumalpet.

+1cc to Mr.S.Shankar, Advocate SR.2052

Cr1.O.P.No.3724 of 2013

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