

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:21.07.2020

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.1578 of 2020

and

CrI.M.P.No.988 of 2020

Y.Gangadhar

S/o.Subramanian,

No.1225/1, Panneerselvam Salai,

K.K.Nagar, Chennai - 600 078.

...Petitioner

Vs

T.N.Sekar,

Rep. By his Special Power

of Attorney Agent

V.Manikandan,

No.121/55-A, West Mada Street,

New Pet, Krishnagiri - 635 001.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records in STC. No.1895 of 2019 on the file of the Judicial Magistrate - I, Krishnagiri and quash the same.

For Petitioner : Mr.T.Thiageswaran

for M/s.Waraon and Sai Rams

For Respondent : Mr.N.Mohan

O R D E R

This petition has been filed to quash the proceedings in STC. No.1895 of 2019 on the file of the Judicial Magistrate - I, Krishnagiri.

2. The learned counsel for the petitioner submitted that the transaction between the petitioner and the respondent is completely civil in nature and in this regard the petitioner has also filed a suit in O.S.No.6430 of 2019 for mandatory injunction, directing the respondent to return the alleged cheque in the complaint on the file of the XIII Assistant, City Civil Court, Chennai and it is pending for trial. Further submitted that even on the date of representation of cheque on 17.06.2019. The petitioner issued stop payment letter to the

banker on 17.06.2019 since there is absolutely legally enforceable debt to the respondent herein. He further submitted that the transaction between the petitioner and the respondent that in respect of developing his property and due to which he entered into joint venture agreement to develop the property belongs to the respondent herein. Thereafter, for the purpose of sale of plot, for the tax purpose, he issued the alleged cheque as security. After completing the entire proceedings there was absolutely no other dues. As such he requested to return the cheque and even then the respondent failed to return the same and also deposited for collection and the same was returned as dishonoured. The learned counsel further submitted that there are two cheques issued for security purpose in which, one cheque was presented before Lakshmi Vilas Bank, Krishnagiri Branch and another cheque bearing No.000565 in Seerkali. Though, the respondent resides at Block No.23, Dr.P.T.Rajan Salai, K.K.Nagar, Chennai - 600 078, as if he resides at within the jurisdiction of Krishnagiri as well as Nagapattinam District, he presented the said cheques for collection and initiated the proceedings under Section 138 of Negotiable Instruments Act. Therefore, the entire proceedings are nothing but abuse of process of law. Therefore, the petitioner never owed to pay any amount to the respondent and he sought for quashing the proceedings.

3. On perusal of the records, it is seen that the petitioner is a developer and doing business under the name and style of M/s.Ananyakrishnaa Construction Pvt Ltd., Chennai. The petitioner entered into an agreement with the defacto complainant to develop the property situated at Block No.23, Dr.P.T.Rajan Salai, K.K.Nagar, Chennai - 600 078. As per the agreement, the petitioner, being a developer has to pay a rent of Rs.25,000/- to the respondent herein from the month of November 2019 to April 2020 for his plot. It comes to 4,50,000/- and after deducting TDS of 45,000/- it comes to 4,05,000/- and issued a cheque for the said amount. When it was presented for collection, the same was returned as dishonoured for the reason 'stop payment' issued by the petitioner herein. Whereas the learned counsel for the petitioner raised various points which are mixed questions of facts which cannot be decided under quash petition filed under Section 482 of Cr.P.C., and it has to be established before the trial Court by let in evidence. Therefore, this court is not inclined to quash the proceedings initiated by the petitioner. However, the petitioner is at liberty to raise all the grounds in the manner known to law before the appropriate forum.

In the result, this Criminal Original Petition is dismissed.
Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate - I,
Krishnagiri.

CRL.O.P.No.1578 of 2020

RJI (CO)
RV(28/10/2020)



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