

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.3215 of 2020
and Crl.M.P.Nos.1879 & 1880 of 2020

M.C.Balagopal

S/o Munusamy

No.56, Krishnan Koil Street

Thirunagar, Valasaravakkam

Chennai - 600 087.

....Petitioner/Accused

Vs.

T.R.Dhananjayan

S/o Late T.R.Rajavelan

No.AP 557, 17th Cross Street

16th Main Road, Anna Nagar West

Chennai - 600 040.

at present residing at

Plot No.21060/C16/12 Village Gaborone

Botswana, Africa

Represented by his Power Agent

Mrs.G.Kalanithi

W/o R.Gajapathi

Old No.4/554, New No.4/4

Thiruveethi Amman Koil Street,

Bharaniputhur Main Road

Periya Kolathuvancheri

Iyyapanthangal

Chennai - 600 122.

....Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to C.C.No.5341 of 2016 on the file of the learned XX Metropolitan Magistrate, Chennai and quash the said complaint filed under Section 138 of the NI Act.

For Petitioner : No Appearance

For Respondent : No Appearance

ORDER

The Criminal Original Petition has been filed to call for the records pertaining to C.C.No.5341 of 2016 on the file of the learned XX Metropolitan Magistrate, Chennai and quash the said complaint filed under Section 138 of the NI Act.

2.It is averred that the alleged cheque was issued as security purpose and not issued for any of the legally

enforcible debt to the respondent herein. As per Memorandum of Understanding between the petitioner and the respondent dated 22.03.2016, the alleged cheque was obtained by the respondent. The said Memorandum dated 22.03.2016 itself is a fabricated one and it was prepared on the unwritten stamp papers sent by the petitioner and subsequently it was fabricated by the respondent. Therefore, the petitioner need not pay anything to the respondent and as such entire complaint has been lodged only to extract money from the petitioner illegally.

3.It is seen from the complaint, the respondent alleged that the petitioner issued 3 cheques for a sum of Rs.1 Crore in view of the Memorandum of Understanding dated 22.03.2016. Thereafter all the cheques were presented for collection and the same was returned due to insufficient funds. After issuing notice to the petitioner, the respondent lodged complaint, for the offence punishable under Section 138 of the NI Act. The petitioner failed to maintain proper accounts for consideration to the complainant and also violated the provisions of Power of Attorney. In the Memorandum of Understanding the petitioner agreed to pay a sum of Rs.1 Crore and issued cheques to the respondent herein. Therefore, all the grounds raised by the petitioner are completely question of facts and it cannot be decided in a quash petition filed under Section 482 of Cr.P.C.,. Thefore the petition is devoid of merits. Hence the Criminal Original Petition is dismissed. Consequently connected miscellaneous petition is closed.

s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Chief Metropolitan Magistrate Court
Egmore, Chennai 8.

2.The XX Metropolitan Magistrate
Chennai

3.The XXII Metropolitan Magistrate
Chennai.

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VS (CO)
SP(01/10/2020)