



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2020

CORAM

THE HON'BLE Mr. JUSTICE P.N. PRAKASH

Cr1.O.P.No.8507 of 2018
and Cr1.M.P.Nos.4408 & 4409 of 2018

K.Prabakaran ... Petitioner

Vs.

D.Kumaresan ... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to call for the records and quash all further proceeding in C.C.No.3753 of 2017, on the file of Metropolitan Magistrate, Fast Track Court -IV, George Town till the disposal of the above Cr1.O.P.

For Petitioner : Mr.J.Stalin
(No appearance)

For Respondent : Mrs.J.Tamilarasi
(No appearance)

ORDER

This case is taken up through video conferencing.

2. There is no representation for the petitioner on 05.08.2020, 18.08.2020, 18.09.2020 and 25.09.2020 and hence, the matter was posted under the caption 'for dismissal' today. Today also, there is no representation for the petitioner. Hence, this Court perused the petition and passed the following order :-

D.Kumaresan (the respondent herein) has initiated a proceeding in C.C.No.3753 of 2017 in the Court of the Metropolitan Magistrate (Fast Track Court - IV) George Town, under Section 138 of the Negotiable Instruments Act, 1882 against K.Prabakaran (the petitioner herein), for quashing which, the petitioner has filed the present quash petition.

3. It is the case of Kumaresan that Prabakaran had taken a hand loan of Rs.5,00,000/- in the month of October, 2016 and towards the loan, gave a cheque dated 22.09.2017 for the said



amount drawn on HDFC Bank, Besant Nagar, Chennai; Kumaresan presented a cheque on 22.09.2017 and it was returned on 25.09.2017 with an endorsement 'Funds insufficient'; Kumaresan issued a statutory demand notice dated 27.09.2017, which was returned with the postal endorsement 'Door locked, intimation delivered' on 11.10.2017. Therefore, Kumaresan filed a complaint which is under challenge by Prabakaran.

4. It is the case of Prabakaran that Kumaresan is a money lender and Purushothaman, brother of Prabakaran, had borrowed money from him; Kumaresan charged exorbitant interest on account of which, there was misunderstanding between Kumaresan and Purusothaman; while that being so, Kumaresan trespassed into the house of Prabakaran and took away a file and some papers containing blank cheques bearing the signature of Prabakaran; that Purusothaman lodged a complaint to the Police for which a petition enquiry was conducted by J-8 Police Station in C.S.R.No.954 of 2017. Therefore, it is the case of Prabakaran that the prosecution launched against him by Kumaresan, is illegal, as the impugned cheque was illegally taken away by Kumaresan.

5. In the opinion of this Court, these are disputed questions of facts, which cannot be gone into, in a quash petition. Hence, this Criminal Original Petition is dismissed with a liberty to Prabakaran to raise all the points before the Trial Court.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

sni

To

1.The Metropolitan Magistrate,
Fast Track Court -IV,
George Town.

2.-do-thro'The Chief Metropolitan Magistrate,
Egmore.

Cr1.O.P.No.8507 of 2018

AJS (CO)

CB(09/11/2020)