

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2020

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.22339 of 2014 and
M.P.Nos.1 & 2 of 2014

S.Sekar

... Petitioner

Vs.

Venkatesan

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to S.T.C.No.18 of 2013 on the file of the Fast Track Judicial Magistrate Court No.2, Nagapattinam, and quash the same.

For Petitioner : Mr.S.Giritharan

ORDER

The respondent filed a private complaint under Section 200 Cr.P.C. for the offence under Section 138 of Negotiable Instruments Act on the file of the Fast Track Court, Judicial Magistrate Court No.2, Nagapattinam. The learned Magistrate took cognizance on the complaint in S.T.C.No.18 of 2013 and issued summons. The petitioner has been arrayed as accused in the above case and after receipt of summons, the accused has filed this petition to quash the case in S.T.C.No.18 of 2013.

2 The learned counsel appearing for the petitioner would submit that the petitioner has lost his cheque book and he lodged a complaint for the same. Therefore, the cheque in question was not issued by the petitioner and hence the offence under Section 138 of Negotiable Act does not attract. Hence the present case against the petitioner has to be quashed.

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

4 It is an admitted fact that the cheque in dispute is belongs to the petitioner and once it is admitted, subsequent questions whether signature found on the same is that of the petitioner or not and whether he issued the cheque towards discharge of legally enforceable debt or not have to be tested during trial. The petitioner is liable to rebut the

presumption before the trial Court. Therefore, this case is not a fit case invoke power under Section 482 of Cr.P.C and quash the case.

5 In the result, the criminal original petition is dismissed as devoid of merit and substance. Consequently connected miscellaneous petitions are closed. However, the petitioner is at liberty to raise all his defence before the trial Court. Further, since the matter is pending from the year 2013, the trial Court is directed to dispose of the case in S.T.C.No.18 of 2013 in accordance with law within a period of three months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Judicial Magistrate,
Fast Track Judicial Magistrate Court No.2,
Nagapattinam.

+lcc to Mr.S.Giritharan, Advocate, Sr.No.9726.

Cr1.O.P.No.22339 of 2014 and
M.P.Nos.1 & 2 of 2014

CP(CO)
klt(21/05/2020)

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