

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

CrI.O.P No.19178 of 2017
and
CrI.M.P.Nos.11632 & 11631 of 2017

K.Periyasamy
S/o.Kandhasamy ..Petitioner/Accused

Vs.

K.Elango
S/o.Karuppusamy .. Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No.46/2017 on the file of Judicial Magistrate No.1 at Mettur and quash the same.

For Petitioner : Mr.K.Myilsamy

For Respondent : Mr.R.Thirumoorthy

O R D E R

The petitioner, who is an accused in C.C.No.46 of 2017 on the file of Judicial Magistrate No.1, Mettur, on a private complaint filed by the respondent for offence under Section 138 of Negotiable Instruments Act, has filed this petition seeking to quash the same.

2. Learned counsel for the petitioner submitted that the cheque itself is valid for a sum of Rs.10,00,000/- and in this case the cheque amount is Rs.15,00,000/- which clearly shows that cheque has been misused and the amount has been filled up by the respondent clubbed with the fact that the respondent is not a known person to the petitioner. He further submitted that there was some dowry dispute between the petitioner and his daughter's father-in-law, and his daughter got separated from the matrimonial life and living with the petitioner. According to the petitioner, the respondent is the driver of the petitioner's daughter's father-in-law. With grave vengeance, the cheque of the petitioner was misused. He further submitted that the petitioner is a teacher working in a Government aided school and the above case was put to untold misery and sorrow.

3. Learned counsel for the respondent submitted that in this case immediately after filing the complaint, the petitioner approached this Court and obtained stay and trial in this case is yet to commence. Due to pendency of the above criminal original petition, the trial before the lower Court would not be proceeded. At this juncture, the learned counsel for the petitioner submitted that without going into the merits, he may be permitted to withdraw the petition with liberty to raise all the points during trial. He further represented that the petitioner was working as a teacher under the Government aided school and his presence may be dispensed with before the trial Court.

4. The Apex Court in the case of Baskar Industries Vs. Bhivani Denim & Apparels [(2001) SCC Cr1.1254], had taken into consideration of the plea under Section 317 of Cr.P.C.

5. The trial Court is directed to consider the inability of the petitioner to attend the Court on all hearing dates and may dispense with his presence.

6. With the above observation, this petition is dismissed as withdrawn with liberty to raise all the points during trial. Considering the fact that the case is pending from the year 2017, the trial Court is directed to complete the trial within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

bri

To
The Judicial Magistrate No.1,
Mettur.

+1 cc to M/s.K.Myilsamy, Advocate Sr.No. 29591

Cr1.O.P No.19178 of 2017
and
Cr1.M.P.Nos.11632 & 11631 of 2017

MR (CO)
RMP (21/10/2020)