



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.10.2020

CORAM:

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD)Nos.21135 to 21138 of 2016
and
Crl.M.P.(MD).Nos.10794 to 10801 of 2016

N.Mohan

... Petitioner / Accused
(In all Petitions)

Vs.

P.Suresh

... Respondent / Complainant
(In all Petitions)

Common Prayer: Criminal Original Petitions filed under Section 482 Cr.P.C., praying to quash the private complaints in C.C.Nos.343, 347, 348 & 350 of 2016, on the file of the Judicial Magistrate, Court No. I (Fast Track Court) Karur.

For Petitioner	: Mr.V.Singan (In all Petitions)
For Respondent	: No Appearance (In all Petitions)

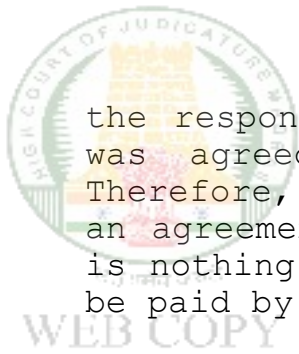
COMMON ORDER

These Criminal Original Petitions have been filed, seeking to quash the proceedings in C.C.Nos.343, 347, 348 & 350 of 2016, pending on the file of the Judicial Magistrate, Court No. I (Fast Track Court) Karur.

2.The learned counsel appearing for the petitioner would submit that even on reading of the complaint, it is clear that the respondent refers to a borrowal, which happened in the year 2009. Subsequently, the respondent has deposited the cheque in the year 2014. Therefore, according to the learned counsel appearing for the petitioner, when the cheque was deposited, there was no existing debt or liability on that date, since the alleged loan itself has become time barred.

3.The learned counsel appearing for the petitioner would further submit that the respondent refers to an agreement on 04.02.2014. Even though the respondent refers to the said agreement,

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the respondent does not even state as to what was the amount that was agreed to be paid by the petitioner to the respondent. Therefore, except for a bare statement to the effect that there was an agreement on the part of the petitioner to pay an amount, there is nothing to indicate as to what was the amount that was agreed to be paid by the petitioner to the respondent.

4.The learned counsel appearing for the petitioner further brought to the notice of this Court the suit that was filed by the petitioner in O.S.1255 of 2014, on the file of the District Munsif Court, Trichirappalli, against the respondent for mandatory injunction, directing the respondent to return the cheques. In the schedule of property, the cheque, which is the subject matter of the complaint under Section 138 Negotiable Instruments Act, is also referred (Cheque 393867).

5.According to the learned counsel appearing for the petitioner, after the summons was issued in the suit, the respondent has in a hasty manner proceeded to file complaints under Section 138 Negotiable Instruments Act against the petitioner.

6.The learned counsel appearing for the petitioner would submit that the action on the part of the respondent is clearly an abuse of process of Court.

7.The respondent has been served in this case and he is neither present in person nor represented by the counsel. Even today, the name of the respondent has been printed in the cause list and there is no representation for the respondent.

8.This Court has carefully considered the submissions made by the learned counsel appearing for the petitioner.

9.This Court is of the considered view that debt that is sought to be claimed from the petitioner by the respondent, is a time barred debt. Therefore, the time barred debt can never fall within the requirements of Section 138 of Negotiable Instruments Act, which talks about only an existing debt or a liability. That apart, the respondent has gone ahead and filed this complaint in the year 2014, after coming to know about the suit filed by the petitioner. Therefore, even according to the averments made in the complaint, the respondent is not able to explain as to what happened during the period from 2009 to 2014. The complaint is totally silent on this aspect.

10.In view of the above, this Court is of the considered view that the complaints itself are abuse of process of Court and the same are liable to be quashed by this Court.

11.In the result, the complaints in C.C.Nos.343, 347, 348 & 350 of 2016 are hereby quashed. The file of the Judicial Magistrate, Court No. I (Fast



Track Court) Karur, are hereby quashed. Accordingly, these Criminal Original Petitions are allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

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/ /2020

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Judicial Magistrate, Court No. I
(Fast Track Court) Karur.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

**Crl.O.P. (MD) Nos.21135 to 21138 of 2016
and
Crl.M.P. (MD) .Nos.10794 to 10801 of 2016
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