



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.11.2020

CORAM :

WEB COPY

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD)No.22421 of 2016

and

Crl.MP(MD)No.11685 of 2016

Senthil Kumar

... Petitioner/accused

Vs.

P.Mariselvam

... Respondent/Complainant

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the records relating to the case in S.T.C.No.205/16 on the file of the learned Judicial Magistrate, Karaikudi and quash the same in respect of the petitioner/accused.

For Petitioner : Mr.P.Aju Tagore

For Respondent : No Appearance

O R D E R

This petition has been filed to quash the proceedings in S.T.C.No.205/16 on the file of the learned Judicial Magistrate, Karaikudi.

2. The petitioner is a sole accused. According to the defacto complainant, the petitioner already borrowed a sum of Rs.4,00,000/- from him and also assured that he will repay the amount with interest. Thereafter, the petitioner issued cheque towards repayment and the same was returned for the reason 'funds insufficient'. Therefore, the respondent issued legal notice to the petitioner. But there is no reply from the petitioner. Hence, the respondent lodged a complaint as against the petitioner herein for the offence under Section 138 of Negotiable Instruments Act. The learned counsel for the petitioner has raised only ground that the alleged cheque was originally handed over to one S.Fancis, S/o.Savarimuthu for business transaction and that cheque was misused by the respondent herein. Therefore, there is no illegal enforceable debt by the petitioner towards the respondent herein.



3.It is seen that on perusal of complaint, after dishonour of the cheque, the respondent issued legal notice to the petitioner and the same was not replied by the petitioner herein. Only after receipt of the summon from the complainant, the petitioner herein come forward with this petition to quash the proceedings on the ground that the alleged cheque was not issued to the respondent herein. Admittedly, the ground raised by the petitioner is disputed question of fact and it cannot be considered by this Court under Section 482 of Cr.P.C.

4.That apart, in the complaint, there is a specific allegation that the petitioner borrowed a sum of Rs.4,00,000/- for interest and in order to repay the said amount, he issued a cheque. Therefore, the quash petition is devoid of merits and it is liable to be dismissed.

5.Accordingly, this criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed.

6.However, the trial Court is directed to complete the trial within a period of six months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (RTI)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

dss

To

The Judicial Magistrate,
Karaikudi.

Crl.O.P.(MD)No.22421 of 2016
and
Crl.MP(MD)No.11685 of 2016
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