



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2020

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.(MD).No.7415 of 2016

and

Crl.M.P.(MD).Nos.3748 & 3749 of 2016

WEB COPY

G.Sahayaraj

...Petitioner / Accused (Single)

Vs.

Rani Fernando

...Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the entire records pertaining to the case in C.C.No.53 of 2012, pending on the file of the learned Judicial Magistrate (Fast Track Court for Cheque Dishonour Cases), Thoothukudi and quash the same.

For Petitioner : Mr.R.Anand

O R D E R

The petitioner herein is accused in the private complaint filed under Section 138 of the Negotiable Instruments Act.

2. According to the complaint, the petitioner borrowed a sum of Rs.3,00,000/- from the complainant to meet out his family expenses and to discharge the said loan, he gave a cheque dated 26.12.2009 for a sum of Rs.3,00,000/-. When the said cheque was presented, it was bounced with memo "Funds insufficient". After serving the statutory notice, a complaint has been filed before the learned Judicial Magistrate No.I, Thoothukudi and the same was taken on file in C.C.No.53 of 2012.

3. According to the petitioner / accused, there is no enforceable debt against him to lay a complaint under Section 138 of the Negotiable Instruments Act, based on the subject cheque. When the matter was pending before the trial Court, it was referred to the Lok Adalat for settlement. A Docket order was passed by the Lok Adalat Preceding Officer, who conducted the lok Adalat about the terms of settlement arrived at between the parties. However, the said settlement cannot be arrived at. Therefore, the matter was reverted back to the Court for trial. Since the Preceding Officer, who conducted the Lok Adalat has recorded the terms of settlement, the petitioner apprehends that the said noting of the Lok Adalat proceedings may prejudice the mind of the learned Trial Judge. Yet another contention in the quash petition raised by the petitioner is



that the statutory notice sent by the complainant was not actually received by the accused / petitioner. Therefore, the complaint itself is not sustainable for failure to follow the mandatory proceedings.

4. This Court finds that the contentions raised in the petition are not sufficient to quash the complaint. These are facts to be heard and decided after the trial. Hence, the Criminal Original Petition stands dismissed. Any observations made by the Lok Adalat Preceding Officer shall not be taken note by the trial Court while deciding the case on merits. Consequently, the connected miscellaneous petitions are closed.

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Assistant Registrar

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/ /2020
Sub Assistant Registrar

tsg

To

- 1.The Judicial Magistrate
(Fast Track Court for Cheque Dishonour Cases), Thoothukudi.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD) .No.7415 of 2016

Dated
02.03.2020

AP(16.03.2020) 2P 3C