



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	16.12.2020
Date of Order	23.12.2020

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THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLICr1.OP(MD)No.15709 of 2017

G.Deisy Rani : Petitioner/Accused

Vs.

M/s.Sree Sakthi Diamond
represented by its partner
A.Vijayan : Respondent/Complainant

Prayer: Criminal Original Petition filed under section 482 of the Criminal Procedure Code, directing to transfer the CC No.28 of 2017 on the file of the Fast Track Court at Magisterial Level, Karur to Thanjavur and pass such further or other orders.

For Petitioner : Mr.A.Haja Hohideen, Advocate

For Respondent : Mr.P.Athimoolapandian, Advocate

O R D E R**(Thro' VC)**

This Criminal Original Petition is filed seeking to transfer the CC No.28 of 2017 on the file of the Fast Track Court at Magisterial Level, Karur to Thanjavur.

2.It is the case of the petitioner that she is residing in Karur and the respondent is a registered partnership firm, doing financial business under the name and style of Sree Sakthi Diamond and they filed a complaint against her as she borrowed a sum of Rs.4,00,000/- from them under the demand promissory note, dated 11.08.2015 and subsequently, she has issued a cheque of Axis Bank Ltd., Thanjavur, for Rs.4,00,000/- towards discharge of the liability and since the cheque was dishonoured as "Account closed", the respondent issued a legal notice on 14.03.2016 and in-spite of reply notice, a complaint was filed before the Fast Track Court at Karur. Hence, this case.

3.Heard the learned counsel appearing on either side and perused the materials available on record.

4.The main contention raised on the side of the petitioner/accused is that she is a widow and aged about 60 years and hence, it is difficult for her to travel from Thanjavur to Karur

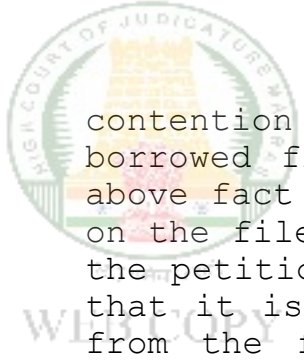


to attend the hearing of the above case often and already, she discharged the amount, which was borrowed from the respondent, but the respondent/de-facto complainant failed to return the blank cheque received from the petitioner and filed this false case and when she appeared before the Judicial Magistrate Court at Karur, the respondent's men waylaid and threatened her by saying that she should have paid Rs.4,00,000/- within two weeks, failing which they will kidnap her and kill her and she suffered very much to reach Thanjavur without any help and she has to be saved from the clutches of the respondent and hence, in order to protect and safeguard, the case in CC No.28 of 2017 pending on the file of the Judicial Magistrate, Karur has to be transferred to the Judicial Magistrate Court, Thanjavur and no prejudice will be caused to the respondent, if the case is transferred to Thanjavur and prays that the criminal original petition has to be allowed.

5. On the other hand, it is argued on the side of the respondent that the petitioner/accused only borrowed Rs.4,00,000/- from the respondent/de-facto complainant and issued a blank cheque and she has not paid either towards principal or interest and the men of the respondent never waylaid the petitioner and threatened her and the petitioner is hale and healthy and to drag on the proceedings, the petitioner filed this petition and there is no hardship to the petitioner to attend the hearing before the Judicial Magistrate Court at Karur and further she has not taken any steps to cross examine the respondent/de-facto complainant and prays that the criminal original petition filed by the petitioner has to be dismissed.

6. The petitioner stated that she is a widow and aged about 60 years and further, the men of the respondent threatened her to pay the amount within a short period and hence, it is difficult for her to attend the court. But in the written submission filed on the side of the petitioner, it is stated that on 29.09.2017, when the petitioner returned to Thanjavur, after attending Judicial Magistrate court at Karur, the respondent's men waylaid her and threatened to repay the amount within a week and for that, she gave a complaint to the police. The petitioner has filed the copy of the complaint. On perusal of the copy of the complaint, it reveals that it was given only on 11.10.2017. The petitioner has not chosen to give the complaint immediately, but she gave the complaint only on 11.10.2017. No explanation was given on the side of the petitioner for the delay in giving the complaint. Further, no document was filed on the side of the petitioner to prove that the above complaint was received by the Superintendent of Police, Karur. The petitioner failed to prove the receipt of the complaint by the police official. Hence, it is held that the petitioner failed to prove that on 28.09.2017, she was waylaid and threatened by the respondent's men, when she was returning to Thanjavur.

7. Further, it is possible for the petitioner to file a petition for dispense with before the concerned court. It is main



contention of the petitioner that she has discharged the amount borrowed from the respondent. Hence, it is her duty to prove the above fact only in the trial of the case in CC No.28 of 2017 pending on the file of the Judicial Magistrate, Karur. The reasons stated by the petitioner/accused are not at all acceptable. Hence, it is held that it is not necessary to transfer the case in CC No.28 of 2017 from the file of the Judicial Magistrate court at Karur to the Judicial Magistrate at Thanjavur.

8. In view of that, this criminal original petition is **dismissed**.

Sd/-

Assistant Registrar (AS)

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Sub Assistant Registrar (CS)

To

The Judicial Magistrate, Karur.

Cr1.OP(MD)No.15709 of 2017
23.12.2020

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