



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2021

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

CrI.O.P.No.11804 of 2015
and MP No.1 of 2015

C.Rajavel

...Petitioner/Accused

Vs.

Ms.Pavalakodi

..Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to the complaint in S.T.C.No.19 of 2015 filed by the respondent on the file of the Judicial magistrate, Fast Track Court, Kallakurichi.

For Petitioner : Mr.R.Gopinath

For Respondent : Mr.P.Rajavel

ORDER

This Criminal Original petition has been filed seeking to quash the complaint in S.T.C.No.19 of 2015 filed by the respondent on the file of the Judicial magistrate, Fast Track Court, Kallakurichi

2. The gist of the case is that the petitioner and respondent are family friends. The complainant has given a sum of Rs.5,00,000/- as hand loan to the accused, for which, the accused had given a cheque dated 05.08.2014 issued by the South Arcot District Central Co-operative Bank, Chinnasalem bearing Cheque No.248558. When the same was presented, the cheque has been returned with an endorsement as "Account Closed". The complaint preferred a complaint under Section 138 r/w Section 142 of Negotiable Instrument Act. The said complaint has been taken cognizance by the learned Judicial Magistrate, Fast Track Court, Kallakurichi in S.T.C.No.19 of 2015.

3. The learned counsel for the petitioner submitted that he has not received any money as hand loan from the respondent. On the other hand, as the complainant is a money-lender, who lends money for interest, the petitioner who is a distant



relative had introduced his friend one Arasu, Retired Deputy Tahsildar, to the complainant in the year 2003, who was in emergent need of money. The petitioner lent money for a sum of Rs.1,50,000/- to the said Arasu, for which, the complainant asked a security from the petitioner. Therefore, as per the request of the respondent/complainant for security towards the above said amount, as a good gesture, the petitioner has issued four signed blank cheque from his bank account, out of which, one cheque could not be recollected by the petitioner, while the remaining cheques bearing cheque Nos.248558, 248559 and 248560 all drawn on South Arcot District Central Co-operative Bank Limited, Chinna Sale in the year 2003 itself. The above said cheques were issued only as a Security and not as an instrument to discharge the liability of the said Arasu. Subsequent to the above, the respondent also initiated proceedings under Section 138 of the Negotiable Instruments Act against the petitioner in C.C.No.26 of 2005 before the learned Judicial Magistrate Court, Kallakurichi. In the said proceedings, settlement was arrived at between the parties by Settlement Memo dated 31.08.2013 in L.A.C. No.267 of 2013 in C.C.No.12 of 2006.

4. Heard the learned counsel appearing for the respondent.

5. The grounds raised by the counsel for the petitioner are all factual in nature and it requires appreciation of evidence and this Court cannot decide the same in exercise of its jurisdiction under Section 482 of Criminal Procedure Code. It is left open to the petitioner to raise all the grounds before the Court below and the same shall be considered on its own merits and in accordance with law. This Court is not inclined to interfere with the proceedings pending before the Court below.

6. In the result, this Criminal Original Petition is disposed of with a direction to the learned Judicial magistrate, Fast Track Court, Kallakurichi to complete the proceedings in S.T.C.No.19 of 2015, within a period of three months for the date of receipt of copy of this order. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The learned Judicial magistrate,
Fast Track Court, Kallakurichi

2. The Public Prosecutor,
High Court of Madras,
Chennai.

+1 cc to Mr.R.Gopinath,Advocate Sr.No.38316

+1 cc to Mr.P.Rajavel,Advocate Sr.No.38402

Crl.O.P.No.11804 of 2015
and MP No.1 of 2015

SPD (CO)
CT (06/09/2021)