

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P. No.7042 of 2021
and
Crl.MP.Nos.4687 & 4689 of 2021

O.S. Prabhakar

... Petitioner

Versus

T. Deenadayalan

... Respondent

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C No.6 of 2021 pending on the file of the Learned Judicial Magistrate, Arakonam and quash the same.

For Petitioner : Mr.A. Kripakaran,

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C No.6 of 2021 pending on the file of the file of Learned Judicial Magistrate, Arakonam.

2.The respondent has filed C.C. No.6 of 2021 before the Judicial Magistrate, Arakonam stating that the petitioner availed financial assistance to the tune of Rs.50 lakhs from him on various dates between 29.04.2015 to 09.11.2016 to meet the educational expenses of his son. When the respondent demanded repayment of loan amount, the petitioner issued four cheques drawn on State Bank of India, Arakonam Branch on 10.09.2020. The respondent presented the cheque on 31.10.2020, but it was dishonoured for the reason "exceeds arrangement". The respondent issued a notice dated 17.11.2020 for which the petitioner had sent a reply dated 26.11.2020. Thereafter, he filed the Complaint under Section 138 of the Negotiable Instruments Act, before the said Court.

3.According to the petitioner, the loan is time barred. It is the specific defence of the petitioner is that the respondent through his henchmen, barged into his house and threatened him with dire consequences. The respondent also forcibly obtained his signature on blank papers and cheques on 16.10.2020. Using the same, a false complaint has been foisted against the petitioner. The petitioner has also lodged a complaint to the Superintendent of Police, Ranipet on 27.10.2020.

4. On perusal of the materials and the submissions, it is seen that the points raised by the petitioner is factual in nature, which has to be necessarily put to trial and it cannot be decided in the quash petition. The petitioner is at liberty to raise all the points raised before this Court and put forth the same during trial along with documentary evidence.

5. At this stage, the learned counsel for the petitioner submits that the petitioner is a senior citizen age of 63 years. Since he is suffering from some health ailments, his personal appearance may be dispensed with. Taking note of the above submission, the personal appearance of the petitioner is dispensed with before the trial court and the petitioner shall be represented by a counsel, on condition the petitioner files an affidavit before the Lower Court that he shall not cause any delay in examination of witness then and there by his counsel and he will not question the evidence recorded in his absence before the trial court. It is also made clear that the petitioner shall be present before the Court below at the time of questioning under Section 313 Cr.P.C and at the time of receiving the final judgement.

6. Accordingly, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

klt

To

The Judicial Magistrate, Arakonam.

EU 8.6.2021

CRL.O.P.No.7042 of 2021